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CENTRAL COAST DISTRICT OFFICE  
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W6a



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Staff: R.Hyman/D.Carl  
Staff report: 8/31/99  
Hearing date: 9/15/99

## APPEAL STAFF REPORT DE NOVO HEARING

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**Appeal number** ..... **A-3-SCO-98-101, Bailey/Steltenpohl Mixed Use Davenport Project**

**Applicants** ..... Fred Bailey and Greg Steltenpohl

**Appellants** ..... Susan Young (Citizens for Responsible North Coast Planning), George Jammal (Sierra Club), and David S. Kossack

**Local government** ..... Santa Cruz County

**Local decision** ..... Approved with conditions (October 20, 1998)

**Project location** ..... 3500 Highway One (on the seaward side of Highway One opposite the Highway's intersections with Davenport Avenue and Center Street) in Davenport on the north coast of Santa Cruz County (APN: 58-121-04).

**Project description** ..... Reconstruct a 13,127 square foot building and add 9,791 square feet in three phases to create a 22,918 gross square foot mixed-use building (commercial, residential, and manufacturing); construct a 750 square foot greenhouse; convert an existing boat into a residential structure; and construct a 66 space recessed parking lot (involves grading to depress below existing grade).

**File documents** ..... Santa Cruz County Certified Local Coastal Program (LCP); Addendum to the General Plan for the Davenport Beach and Bluffs; and Santa Cruz County Coastal Development Permit File 95-0685.

**Staff recommendation**... **Approval with Conditions**

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**Summary:** On May 13, 1999, the Commission found that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program (LCP) and took jurisdiction over the coastal development permit. At the July 14, 1999 Commission meeting, the Coastal Commission continued the de novo hearing and directed staff to consult with the Applicant on the details of a modified project that would be consistent with the certified LCP and Coastal Act access and recreation policies. Staff has been working with the Applicant since this time on the details of such a



**California Coastal Commission**  
**September 1999 Meeting in Eureka**

Staff: R.Hyman/D.Carl Approved by:

A-3-SCO-98-101 (Bailey-Steltenpohl) Staff Report for September 1999 Hearing.doc (8/31/99)

project based upon the materials submitted by the Applicant and now recommends that the Commission approve a coastal development permit for a modified and reduced project as summarized below.

### Project Background

As originally approved by Santa Cruz County, the proposed development would renovate and expand a former agricultural packing shed to support a mixed-use commercial development. The project is located between Highway One and the ocean in northern Santa Cruz County in the Town of Davenport, a town of approximately 200 people surrounding for the most part by rural agricultural lands. The town is dominated by the presence of the Davenport Cement Plant, but is also a popular whale watching location and visitor destination. Apart from the cement plant industrial facility, there are approximately 20,000 square feet of commercial, warehousing and manufacturing uses on the inland side of the highway. The existing building that would be expanded is the only significant structure seaward of the Highway in Davenport. Prior to this proposal, it was used for juice manufacturing and distribution.

The County-approved project would increase the total usable square footage of the building from 13,127 to 22,918 square feet, although the footprint of the building would only be increased by approximately 700 square feet. It would also increase the profile of the building from 3 to 6 feet and thus the overall mass of the building. Finally, as approved by the County, the project would also include a 66-car parking lot on an open blufftop field, adjacent to the existing building, to support the new mixture of uses approved by the County. This field has been used informally for parking for many years by people who stop to visit Davenport, or to access the beach and coastal bluffs, and to enjoy the views of the ocean provided at this location.

On May 13, 1999 the Commission found that a substantial issue was raised by the appeal. Although the Commission's findings recognized many positive aspects of the project, including its visitor-serving nature and its provision of public access, substantial issues were raised by the project's impacts on community character and visual resources; balance of appropriate uses; public access; water and sewer supply; nonpoint source pollution; and cumulative impacts. The impact of the parking proposed for the upper portion of the site on visual resources and community character raised particular concerns. On July 14, 1999, the Commission subsequently continued the de novo hearing on the project and directed staff to work with the Applicant on the details of a modified project.

As submitted by the Applicant, the revised project proposes to support a mixed-use development of: ten overnight units with associated day spa, main office & caretaker's unit; restaurant with associated greenhouse and office; two retail shops for selling local artisan arts and crafts; one micro-juicery with warehousing space; and one dwelling unit in converted existing on-site boat. The Applicant has also proposed significant public access improvements, dedication of easements to the County for 3 vertical and one lateral trail, as well as five public parking spaces, a public pathway, a stairway down the bluff face, benches, and vista points. The Applicant has also proposed to substantially lower the grade of the upper parking lot and has incorporated design details such as stamped colored concrete and landscaping to protect scenic vistas. The entire project, including the upper parking lot would be designed to control polluted runoff.



## Recommendation

The proposed project primarily involves competing LCP policy objectives. The LCP is clearly supportive of visitor-serving (and other) uses on the Highway One frontage in Davenport. However, the LCP is also protective of visual resources, especially along the shoreline, and of the special community character of Davenport itself. In this case, it is possible to support a substantial level of visitor-serving uses at this site in scale with Davenport's community character, and in such a way as to not compromise shoreline visual resources.

Staff has worked with the Applicant on a modified project that allows for the modest proposed expansion of the building itself, but with a reduced scale parking lot substantially depressed below grade on the upper lot area (for approximately 36 cars). Such a parking lot has been reconfigured with modified parking bays and landscaped areas to provide better visual separation, and with bluff-colored paving treatment and rockwork to better harmonize with its blufftop locale. With the parking available on the lower lot, the project would have approximately 56 spaces, which should be sufficient for the proposed uses.

Overall, as conditioned herein, the modified project would preserve significant public ocean vistas as well as the special character of the Town of Davenport. New visitor-serving accommodations would be provided and public access would be formalized, thereby enhancing the public's ability to access this special coastal location. Specifically, three vertical easements and two lateral easements providing public access through trails and stairs across and along the property would be provided by the project, as would the permanent provision of 5 public parking spaces in the upper parking lot.

Finally, the project is also conditioned to provide protection of other coastal resources, including: prevention of polluted runoff; protection of riparian resources to the south of the existing building; providing adequate water and sewer for the project; and protection of archaeological resources.

Staff recommends approval with conditions.

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## 1. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the motion below. A yes vote results in approval of the project as modified by the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Motion.** *I move that the Commission approve Coastal Development Permit Number A-3-SCO-98-101 subject to the conditions below and that the Commission adopt the following resolution:*

**Approval with Conditions.** *The Commission hereby grants a permit for the proposed development, as modified by the conditions below, on the grounds that the modified development will be in conformance with the provisions of the Santa Cruz County certified Local Coastal Program, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and recreation policies of the California Coastal Act of 1976 (Coastal Act), and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).*



## 2. Conditions of Approval

### A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### B. Special Conditions

1. **Approved Project.** As shown on the approved plans for the project, this coastal development permit authorizes only:
  - (a) (Approved Structures) A two-story, 30-foot high, 22,918 square foot commercial mixed use building; two parking lot areas; a one-story, 12-foot high, 750 square foot greenhouse; relocation and interior remodel of a boat to a one-story, 12-foot high residential dwelling unit; a detached, approximately 75 square foot bathroom building; public access pathways, stairway, and viewing platform; a pedestrian bridge from the upper parking area to the commercial building; an engineered drainage system with rock rip-rap energy dissipater; two bicycle parking facilities; any grading necessary to construct the new parking areas; and onsite landscaping;



- (b) (Approved Variance) A variance to reduce the front yard setback to 0 feet for a 53 lineal foot portion of the building; reduce the front yard setback to 0 feet for a 160 lineal foot portion of the lower (southeast) parking lot; to reduce the front yard setback to 10 feet for a 290 lineal foot portion of the upper (northwest) parking lot; to reduce the front yard setback to 2.5 feet for a 26 lineal foot portion of the upper (northwest) parking lot; and increase the main building height to 30 feet above finished grade.
- (c) (Approved Uses) Ten overnight units with associated day spa, main office & caretaker's unit; restaurant with associated greenhouse and office; two retail shops for selling local artisan arts and crafts; one micro-juicery with warehousing space; and one dwelling unit in a converted existing on-site boat.

Any other development, including but not limited to any change in the Approved Uses, shall require a separate Coastal Commission-approved coastal development permit or a separate Coastal Commission-approved amendment to Coastal Development Permit A-3-SCO-98-101 unless the Executive Director determines that no amendment or further permit is necessary.

**2. Approved Project Phasing.** The Approved Project may be constructed in up to 3 phases. If constructed in phases, the phases shall be as follows:

- (a) Phase 1: Reconstruction of the northwest half of the existing building, the upper (northwest) parking lot, all upper parking lot drainage facilities, all bicycle parking facilities, and all access amenities, including, but not limited to, all trails, stairways, viewing areas, and benches.
- (b) Phase 2: Reconstruction of the southeast half of the existing building, renovation of the existing lower level (southeast) parking lot, and all other drainage apparatus not part of Phase 1.
- (c) Phase 3: Construction of a detached 750 square foot greenhouse, relocation and interior remodel of a boat to a residential dwelling unit, and construction of the detached boat bathroom building.

If constructed in phases, phases 1 and 2 may be implemented either separately or simultaneously; separate implementation would require total completion of phase 1 before commencing phase 2. In any case, if constructed in phases, phase 3 shall not occur until phases 1 and 2 are completed.

If the Permittee chooses to construct the Approved Project in phases, PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION AT THE SITE, the Permittee shall submit phasing schedule to the Executive Director of the Coastal Commission for review and approval.

**3. Revised Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit revised project plans to the Executive Director of the Coastal Commission for review and approval. The revised project plans shall be substantially in conformance with: sheets A2, A3, A5, and A6 of the plans submitted to the Commission titled *Davenport Commercial* by Charles J. Franks and Associates (most recent revision dated August 14, 1999); sheets A1, A3.1, A4, A7, A8, A9 A6 of the plans approved by Santa Cruz County titled *Davenport Commercial* by



Charles J. Franks and Associates (most recent revision dated October 7, 1998); sheets C1, C2, and C3 of the plans approved by Santa Cruz County titled *Preliminary Grading and Drainage Plan* by Bowman and Williams (most recent revision dated October 7, 1998) as amended for depth of grading by sheet 1 of the plan submitted to the Commission titled *Preliminary Grading Plan* by Bowman and Williams dated August 6, 1999; plan submitted to the Commission titled *Davenport Commercial Greenhouse* by Franks, Brenkwitz & Associates dated August 14, 1999; the plan submitted to the Commission titled *Davenport Commercial Landscape Boat* by F., B. & A. dated August 23, 1999; and the document titled *Public Access Amenities and Access Management Plan* submitted to the Commission and stamped received August 24, 1999. The revised project plans shall show the following changes to the project:

**(a) Parking Lots**

1. The upper (northwest) parking lot shall be constructed within the building envelope as defined on Exhibit G. For every five (5) parking spaces shown in the upper lot, a landscaped median equal in size to one compact parking space width (7.5 feet) shall be provided. If the number of parking spaces shown in both the upper parking lot and the lower (southeast) parking lot totals 51 or more, 30% of these overall spaces can be compact spaces; otherwise, 10% of these overall spaces can be compact spaces (pursuant to current County Code Section 13.10.553(e)). Any such compact spaces allowed shall be distributed as follows: one-third to upper lot and two-thirds to the lower lot. A minimum of 2 disabled parking spaces shall be provided in the upper lot. A minimum of 5 parking spaces shall be reserved and signed in the upper lot for public use. All parking spaces shall conform to current County Code Section 13.10.554 parking space standards.
2. All parking spaces in the upper parking lot area shall be recessed a minimum of five feet below the existing elevation of the southern (seaward) edge of Highway One except for that area of the parking lot at the parking lot entrance (extending 35 feet northwest and 35 feet southeast of the entrance centerline) where the grade shall be recessed from three (at the centerline) to five feet. If retaining walls are necessary to achieve this final grade, these shall be constructed of stone, as shown on the parking profile submitted to the Commission and dated received August 18, 1999, and shall be depicted on plan elevations. Landscaping fronting any retaining walls shall be depicted in the final landscape plans required by this Special Condition. Parking lot excavation shall not extend into the public access easement/pathway areas shown on the approved plans.
3. Plans shall provide for adequate transitions (e.g., stairways, ramps, etc.) and logical entry locations from the finished grade of the upper parking lot to the public access easement/pathway areas shown on the approved plans.
4. A perimeter rock wall shall not be allowed. Rustic split rail fencing shall only be allowed in the area southwest of the upper parking lot building envelope to protect pedestrians from the





edge of the railroad cut; no other parking lot fencing is allowed. Such fencing shall be constructed of rough-hewn and unpainted wood timbers (e.g., cedar).

5. All parking, loading and circulation areas shall be surfaced with a minimum of 2 inches of concrete finished as colorized stamped concrete to mimic the natural earthen tone bluff coloring at the site. Permittee shall submit color samples to the Executive Director for review and approval.
6. The two parking areas shall provide sufficient parking spaces to meet the requirements of current Santa Cruz County Code Section 13.10.552 (i.e., 1 space per 100 square feet of restaurant/café; 0.3 spaces per restaurant employee; 1 space per 600 square feet of manufacturing; 1 space per 1000 square feet of warehouse; 1 space per 200 square feet of retail sales; 1 space per 200 square feet of office; 2 spaces per one bedroom residential dwelling unit; and 1.1 spaces per overnight accommodation unit or 1 space per habitable room (whichever is greater)). At least one of the spaces in each lot must be designated as a handicapped accessible parking space. Bicycle parking spaces shall also be provided and shown on revised plans pursuant to requirements of current Santa Cruz Code Section 13.10.552. All parking spaces shall be defined by wheel stops. The size of each standard parking space shall be not less than 18' x 8-1/2'. Compact spaces shall be at least 16' x 7-1/2'. Handicapped accessible spaces shall be at least 18' x 14'. All parking spaces shall be consistent with all parking standards in current County Code Section 13.10.554. Each bicycle space shall be 6' x 2' in size and equipped with a parking rack to support the bicycle and be of sufficient material and strength to prevent vandalism and theft.
7. Plans shall provide that busses and large trucks may only park and/or discharge passengers in the lower (southeast) parking lot.
8. Not more than 36 total parking spaces shall be provided in the upper parking lot, and not more than 20 total parking spaces shall be provided in the lower parking lot, for a total of not more than 56 parking spaces on the Approved Project site. If the Permittee demonstrates to the satisfaction of the Executive Director of the Coastal Commission that more than 56 spaces can be accommodated on the Approved Project site within the combined area consisting of the upper parking lot building envelope (see Exhibit G) and the proposed lower parking lot pavement area (see page 2 of Exhibit D), and consistent with all other parking parameters established in this condition, said spaces shall be allowed provided that they are made available to the general public from the hours of 5 a.m. to 10 p.m..

**(b)Landscaping**

1. All areas on the Permittee's property outside of the parking lot building envelope as defined on Exhibit G shall be landscaped and shall not include a perimeter rock wall. These unpaved landscaped areas shall be revegetated in a manner that protects views and restricts parking in the undesignated area. All landscaping between the parking lot and Highway One shall be limited to ground cover and low growing shrubs not to exceed 2½ feet in height. All



landscaping between the parking lot and the ocean shall be limited to ground cover less than 6 inches in height with the exception that larger plantings (up to 1½ feet in height) are allowed: (a) in the area adjacent to the stairway to be constructed northwest of the approved building; (b) in the northwest corner of the property; and (c) in any other location that the Executive Director determines shall not degrade the Highway One view corridor.

2. All landscape plans shall show the Myoporum hedge between the approved commercial mixed use building and Highway One extended to the southeast (towards the entrance to the site opposite Davenport Avenue) approximately 50 feet to further screen the lower parking lot. In no event shall the extended Myoporum hedge block Highway One views as determined by the Executive Director. Such landscape plans shall include provisions to maintain the Monterey cypress hedge at the southeast and northwest ends of the building with a cut height of 7 feet and a maximum growth height of 9 feet. Such landscape plans shall also include provisions to maintain the Myoporum hedge at a maximum height that does not exceed the height of the main building.
3. All landscape plans shall specify that all required plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the plans. Such landscape plans shall provide for additional screening vegetation fronting any structures that are exposed to public view by the new driveway entrance. Such landscape plans shall not provide for any additional landscaping that blocks views of the ocean from Highway One.
4. All landscaping shall be provided with an adequate, permanent and nearby source of water which shall be applied by an installed irrigation, or where feasible, a drip irrigation system. The irrigation system shall be designed to avoid runoff, overspray, low head drainage, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways or structures.
5. All landscape plans shall include, at a minimum, a map showing the type, size, and location of all plant materials, the irrigation system, and a schedule for the installation of plants.

**(c) Signage**

1. Plans shall include a sign detail showing two project signs not to exceed 7 feet above grade: one sign shall be at the entrance to the lower portion of the site opposite Davenport Avenue and shall not exceed 25 square feet; and one sign shall be at the entrance to the upper parking lot portion of the site and shall not exceed 12 square feet. Public coastal access signs shall be provided at each trailhead nearest Highway One and along both sides of the highway to provide direction to both northbound and southbound travelers. Public coastal access signs for Highway travelers shall conform to all Caltrans standards for such signs. Public coastal access signs at each trailhead shall be low profile and shall include the standard coastal trail logo.



2. Plan sign detail shall indicate all dimensions, locations, materials and colors of all signs. No sign illumination is allowed. Plastic shall not be used as a sign material. All signs shall be designed to be an integral part of the landscape area and consistent with the architectural character of the main building. All signs must be set back a minimum of 5 feet from the edge of the Highway One right-of-way and shall not obstruct sight distance of motorists or pedestrians.

**(d) Other Reviews and Approvals**

1. Plans shall be submitted with evidence of review and approval by Caltrans for any development, including but not limited to landscaping, signs, paths, and drainage facilities, in the Highway One road right-of-way adjacent to the Permittee's property.
2. All plans shall be submitted with documentation from a licensed geologist and/or geotechnical engineer indicating that: (a) the plans adequately account for any new geotechnical concerns associated with the deeper parking lot excavation; and (b) the plans are consistent with all relevant recommendations contained in the project geotechnical report prepared (by Reynolds and Associates, dated October 28, 1996 and addendum dated May 5, 1997), including the requirement that all grading and paving associated with the parking lot be setback a minimum of 25 feet from the edge of the bluff that borders the southwestern edge of the parcel. All pertinent geotechnical report recommendations shall be included in the construction drawings submitted to the Executive Director.
3. Plans shall indicate evidence of consultation with Caltrans regarding the need for Highway One improvements to accommodate the Approved Project including, but not limited to, striping and turn-lanes. All such Caltrans Highway One improvement requirements shall be indicated on revised plans and accompanied by evidence of Caltrans review and approval for any such improvements.
4. Any off-site improvements must be shown along with evidence of review and approval for any such improvements by affected off-site property owner(s).

**(e) Exterior Design & Lighting**

1. Plan exterior elevations shall identify all finish materials. All exterior finishes shall consist of earthen tone colors that blend with the surrounding landscape and/or corrugated metal siding replicating an agricultural building. Permittee shall submit color samples to the Executive Director for review and approval.
2. Plans shall indicate that: all electrical power, telephone and cable television service connections shall be installed underground; pad mounted transformers shall not be located in the front setback or in any area visible from public view unless they are completely screened by walls and/or landscaping or installed in underground vaults; and utility meters, such as gas meters and electrical panels shall not be visible from public streets or building entries. Plans



shall provide for complete screening from public view of all rooftop mechanical and electrical equipment.

3. All lighting for parking and circulation areas shall be limited to pedestrian oriented lighting not to exceed 3 feet in height. Such lighting shall be minimized to the amount necessary for safety purposes. Lighting shall be located where necessary to allow safe pedestrian use of the parking area at night. All lighting shall be downward directed and designed so it does not produce any light or glares off-site.

**(f) Drainage and Erosion Control**

1. Plans shall include a Construction Drainage and Erosion Control Plan for Executive Director review and approval which clearly identify all best management practices to be implemented during construction and their location. Such plans shall contain provisions for specifically identifying and protecting all nearby storm drain inlets and natural drainage swales (with sand bag barriers, filter fabric fences, straw bale filters, block and gravel filters, drop-inlet sediment traps, etc.) to prevent construction-related runoff and sediment from entering into these storm drains or natural drainage areas which ultimately deposit runoff off-site. At a minimum, such plans shall also include provisions for stockpiling and covering of graded materials, temporary stormwater detention facilities, revegetation as necessary, restricting grading and earthmoving during the rainy season.

The Construction Drainage and Erosion Control Plan should make it clear that: (a) dry cleanup methods are preferred whenever possible and that if water cleanup is necessary, all runoff will be collected to settle out sediments prior to discharge from the site; all dewatering operations must require filtration mechanisms; (b) off-site equipment wash areas are preferred whenever possible; if equipment must be washed on-site, the use of soaps, solvents, degreasers, or steam cleaning equipment should not be allowed; in any event, this wash water should not be allowed to enter storm drains or any natural drainage; (c) concrete rinsates should be collected and they should not be allowed into storm drains or natural drainage areas; (d) good construction housekeeping shall be required (e.g., clean up all leaks, drips, and other spills immediately; refuel vehicles and heavy equipment off-site and/or in one designated location; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather); and finally (e) all erosion and sediment controls shall be in place prior to the commencement of grading and/or construction as well as at the end of each day. A water truck shall be on the site during all major grading activities and all exposed earthen surfaces water shall be lightly sprayed at frequencies that prevent significant amounts of dust from leaving the project site.

The Permittee shall implement the approved Construction Drainage and Erosion Control Plan for the duration of all construction activities.



2. Plans shall provide for repair of the bluff seaward of the upper parking lot where pedestrian trails have resulted in erosion and gullyng. Such bluff repair plans shall be undertaken at the same time as the upper parking lot construction.

**(g) Public Access Amenities and Access Management Plan.** The *Public Access Amenities and Access Management Plan* submitted by the Permittee as part of the project proposal shall be amended as follows:

- (1) Such plan shall include a trail easement dedication to Santa Cruz County for a corridor at least ten (10) feet wide extending along the southwesterly boundary of the property from the western to eastern property line as shown on Exhibit H (as provided for by Special Condition 4 of this approval). If the Permittee submits evidence that indicates conclusively (in the opinion of the Executive Director) that such easement would irreconcilably conflict with the Permittee's existing easement with Union Pacific Railroad, then this easement is not required.
- (2) The means of securing the easements for public access shall be through direct dedications of easements to Santa Cruz County as provided for by Special Condition 4 of this approval, and not through "offers to dedicate."
- (3) With the exception of the southwesterly boundary easement, all easement areas not covered by trail surfaces shall be landscaped consistent with the landscape plan parameters of this condition. The trail within the easement along the northwest property line shall be kept to the westerly side of the easement area and screening vegetation not to exceed 2½ feet installed between the trail and the upper parking lot area. Parking lot pavement shall not extend into this easement area.
- (4) The 5 public parking spaces in the upper parking lot area shall be available to the general public at all times without any restrictions on use. These spaces shall be provided within the area of the parking lot northwest of the parking lot entrance as shown on Exhibit G. The 5 public spaces shall be full size (18' x 8½') parking spaces.
- (5) Valet parking shall be allowed during peak use hours (e.g., weekends, holidays, and high restaurant use times), which will be specifically defined in the re-submitted Management Plan. When valet parking is in effect, the use of the valet shall be optional. During non-peak hours, all site parking lot areas shall be available for general public use on a first-come, first-serve basis. All parking lot spaces, with the exception of the 5 designated public parking spaces, may be closed to use from the hours of 10 p.m. to 5 a.m..

**(h) Other**

1. All detached structures and other site improvements, including but not limited to, the greenhouse, boat residence, boat residence restroom, storage shed, bicycle parking, points of ingress and egress, parking areas, loading areas, turnarounds, trash and recycling enclosures,



utility connections, easements, public access stairway, paths, viewing platforms and benches must be shown on the final plans, including elevations.

2. All interior spaces shall be clearly demarcated on floor plans with dimensions and clear indication of the use(s) taking place within each interior space.
3. Grading plans shall indicate approximate quantity of material to be excavated and identification of the receiver site(s) for all such excavated materials. If the fill site is in the coastal zone, then its use for receiving fill must be authorized by a coastal development permit or by a valid County permit that predates the California Coastal Act.

The Permittee shall undertake development in accordance with the approved final plans. All project elements shown on the approved plans shall be installed. If the project is constructed in phases pursuant to Special Condition 2, all elements shown on the approved plans in each phase shall be installed prior to occupancy of any development constructed in that phase. If the project is not constructed in phases, all elements shown on the approved plans shall be installed prior to occupancy of the any part of the Approved Project defined by Special Condition 1. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit amendment unless the Executive Director determines that no amendment is necessary.

**4. Public Access Easements.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, which shall dedicate to Santa Cruz County permanent public easements for public pedestrian access and passive recreational use to and along the shoreline as follows:

- (a) The first area of dedication shall consist of a corridor at least ten (10) feet wide encompassing the existing trail located southeast of the existing building extending from the northern to southern property line as shown on Exhibit H.
- (b) The second area of dedication shall consist of a corridor at least five (5) feet wide extending adjacent to the southerly portion of the upper (northwest) parking lot area from the northern to southern property line as shown on Exhibit H.
- (c) The third area of dedication shall consist of a corridor at least ten (10) feet wide extending along the northwesterly boundary of the property from the northern to southern property line as shown on Exhibit H.
- (d) The fourth area of dedication shall consist of a meandering corridor at least ten (10) feet wide along the top of the bluff and extending from the second area of dedication to the third area of dedication between the upper (northwest) parking lot area and the ocean as shown on Exhibit H. This easement shall be relocatable in the event that any future bluff failure and/or access path realignment modifies the location of the public access and passive recreation amenities in this area.



- (e) The fifth area of dedication shall consist of a corridor at least ten (10) feet wide extending along the southwesterly boundary of the property from the western to eastern property line as shown on Exhibit H. If the Permittee submits evidence that indicates conclusively (in the opinion of the Executive Director) that such easement would irreconcilably conflict with the Permittee's existing easement with Union Pacific Railroad, then this easement is not required.

The recorded document shall include legal descriptions of both the Permittee's entire parcel and the areas of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

5. **Parking Lot Right-of-Way Easement.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, which shall dedicate to Santa Cruz County a permanent right-of-way over the driveway entrance to the upper (northwest) parking lot and a connecting route of a least 20 feet in width to adjoin with APN 058-121-03 for the purpose of providing shared vehicle access with APN 058-121-03 if that parcel is developed in the future. The recorded document shall include legal descriptions of both the Permittee's entire parcel and the area of right-of-way dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The right-of-way document shall be reviewed and approved by County Planning staff and County Counsel prior to document recordation.
6. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which:
  - (a) (Open Space Deed Restriction) Reflects the following restriction on development in the riparian open space area as designated on either: (a) Exhibit H; or (b) a map submitted to the Executive Director for review and approval delineated by a qualified biologist in accordance with the provisions of County Code Section 16.30.030 (definitions of riparian corridor and riparian woodland). No development, as defined in current Coastal Act Section 30106, other than that specifically authorized by these permit conditions, shall occur in the open space area except for: vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation. Rail transport and public access improvements and use are permitted on the trails and rail line. The area subject to this restriction shall be kept free of debris.
  - (b) (Use Deed Restriction) States that uses allowed in the on-site buildings are: (1) "Type A" overnight visitor accommodations (i.e., hotels, inns, pensions, lodging houses, "bed and breakfast" inns, motels, recreational rental housing units pursuant to current Santa Cruz County Code Section 13.10.332); (2) a restaurant/café; (3) day spa, sauna, and/or hot tub uses associated with the "Type A" overnight visitor accommodations; (4) neighborhood-scale retail sales (pursuant to current Santa Cruz County Code Section 13.10.332); (4) a micro-juicery and warehouse associated with a restaurant and/or café within the town of Davenport; (5) offices



associated with the permitted restaurant/café, visitor-oriented retail, spa, or “Type A” overnight visitor accommodation uses, or associated with agricultural or marine products; (6) Up to two residential dwelling units with one of these units provided strictly for a caretaker for the Approved Project (see Special Condition 1). And further states that no use or combination of uses shall be allowed which requires more parking (pursuant to current Santa Cruz County Code Section 13.10.552(b) requirements) than available on site as confined to the areas designated for parking pursuant to Special Condition 3 of this approval.

- (c) (Public Parking Deed Restriction) States that a minimum of 5 designated, full size (18’ x 8½’) public parking spaces in the upper parking lot where shown on Exhibit G shall be provided at all times without any restriction on their use.
- (d) (Accessway Maintenance Deed Restriction) States that all access amenities, including but not limited to paths, stairways, viewing platforms, picnic tables, and benches, constructed within the easement areas required by Special Condition 4, and consistent with the approved project plans, shall be maintained in perpetuity by the Permittee.
- (e) (Landscape Deed Restriction) States that all plantings approved under the project’s landscape plans shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the approved plans throughout the life of the project. And further states that all Monterey cypress hedges at the southeast and northwest ends of the building shall be maintained at a cut height of 7 feet and a maximum grow height of 9 feet, and that the Myoporum hedge located between the building and Highway One shall be maintained at a maximum height that does not exceed the height of the main building.
- (f) (Public Accessway Deed Restriction) States that the all amenities, including but not limited to paths, stairways, viewing platforms, picnic tables, and benches, in the area of the Permittee’s property seaward of the upper parking lot area shall be open and available to the general public at all times without restriction.
- (g) (Drainage Facilities Deed Restriction) States that all installed drainage facilities shall be permanently maintained. The silt and grease traps shall be inspected to determine if they need to be cleaned out or repaired at the following minimum frequencies: (1) prior to October 15 each year; (2) prior to April 15 each year; and (3) during each month it rains between November 1 and April 1. A brief annual report shall be prepared by the trap inspector at the conclusion of each October 15 inspection and submitted to the property owner and to County Public Works staff within 15 days of this inspection. This monitoring report shall specify any repairs that have been done or that are needed to allow the trap to function adequately. All necessary repairs so identified shall be completed by the property owner to the satisfaction of the County Public Works Department.





The deed restriction shall include a legal description and site plan exhibit of the Permittee's entire parcel and each deed restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

- 7. Water & Wastewater Will Serve.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit updated water and wastewater service commitments from the Davenport Water and Sanitation District to the Executive Director of the Coastal Commission for review and approval. Such commitments shall include revised calculations of water use and wastewater generation based on the Approved Project specified in Special Condition 1 of this approval.
- 8. Archaeological Monitoring.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a plan to the Executive Director of the Coastal Commission providing for archaeological monitoring, evaluation and mitigation should any archaeological resources be discovered during construction. If such archaeological resources are discovered at any time during construction, all work which could damage or destroy these resources shall be temporarily suspended and all procedures established in current Santa Cruz County Code Sections 16.40.040 and 16.44.070 shall be observed.
- 9. Landscape Monitoring Report.** WITHIN THREE YEARS OF OCCUPANCY OF THE APPROVED COMMERCIAL MIXED USE BUILDING, the Permittee shall submit a landscape monitoring report to the Executive Director for review and approval. Such report shall include photographs of all portions of the site as viewed from Highway One and all landscaping. In the event that in the opinion of the Executive Director landscaping is disrupting the public view across the property from Highway One, the Executive Director shall detail to the Permittee revised landscaping maximum heights for different areas of the property. The Permittee shall implement the revised landscaping maximum heights. In the event that the Permittee disagrees with the Executive Director's assessment, the Executive Director shall schedule the monitoring report as a condition compliance item for the Coastal Commission's review and approval.
- 10. Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.
- 11. Santa Cruz County Conditions.** All previous conditions of approval imposed on the project by Santa Cruz County pursuant to an authority other than the California Coastal Act remain in full force and effect (Application 95-0685, see Exhibit C). All previous conditions of approval imposed on the project by Santa Cruz County pursuant to the California Coastal Act through the certified Santa Cruz County Local Coastal Program are superseded by Special Conditions 1 through 10 of this approval. Special Conditions 1 through 10 of this approval shall take precedence over any Santa Cruz County-



imposed conditions. Any question or dispute over condition requirements shall be resolved by the Executive Director of the Coastal Commission.

### 3. Procedural History

On October 20, 1998 the Santa Cruz County Board of Supervisors approved a coastal development permit (permit number 95-0685) with 58 conditions in conjunction with other related actions: findings for a commercial development permit (to amend permits 74-124-U and 84-0230); a variance to reduce the minimum 10 foot front yard setback to 0 feet; preliminary grading approval; and a mitigated negative declaration for compliance with the California Environmental Quality Act (CEQA). The County concurrently rezoned the property from the C-1 Neighborhood Commercial zone district to the “SU” (Special Use) zone district. The County’s certified LCP provides that this type of rezoning is not considered a LCP amendment. The County’s complete final action was received in the Commission’s Central Coast District Office on October 29, 1998. See Exhibit C for the County’s findings and conditions on the project.

The Commission’s ten-working day appeal period for this action began on Friday, October 30, 1998 and concluded at 5:00 PM on Friday, November 13, 1998. Three valid appeals (from Susan Young (Citizens for Responsible North Coast Planning), George Jammal (Sierra Club), and David S. Kossack) were received during the appeal period and the appeal was filed on October 30, 1999.

On December 8, 1998, the Commission opened and continued the substantial issue hearing on the appeal. The Applicant and Commission staff mutually agreed upon two subsequent postponements of the substantial issue and de novo hearing. On May 13, 1999, the Commission found that the appeal raised a substantial issue in terms of the project’s conformance with the certified Santa Cruz County LCP and took jurisdiction over the coastal development permit for the project. The Applicant subsequently requested, and was granted, a postponement of the hearing until July 1999. On July 14, 1999, the Coastal Commission continued the de novo hearing and directed staff to work with the Applicant on the details of a modified project which would be consistent with the certified LCP and Coastal Act access and recreation policies. This staff report is the culmination of that process.

### 4. Recommended Findings and Declarations

The Commission finds and declares as follows:

#### A. Project Setting

The proposed development is located in the unincorporated Town of Davenport, approximately ten miles north of the City of Santa Cruz. Davenport is a small coastal town in Santa Cruz County’s North Coast planning area and is the only concentrated development area along Highway One between Santa Cruz and Half Moon Bay. This stretch of California’s coastline is characterized by agricultural fields and state



parks. Davenport provides a convenient stopping place and a visitor destination for travelers along this mostly undeveloped coastline.

Other than an abandoned building owned by Lone Star north of the project site, the existing building on the project site is the only development on the coastal side of Highway One in Davenport. The town's residential population of approximately 200 generally live in modest single-family dwellings. Aside from the cement plant industrial facility, there are approximately 20,000 square feet of commercial, warehousing and manufacturing uses on the inland side of the Highway. Restaurants, a grocery, and a bed and breakfast currently serve visitors traveling the scenic coastline. Davenport is overshadowed by the Lone Star Cement Plant, a major industrial facility to the north of town. Ignoring the overbearing presence of the cement plant, this commercial frontage could be described as "eclectic frontier rustic" in character. There are a variety of building styles, mostly two stories or equivalent height, and none looking architect-designed.

The project site is located on the seaward side of Highway One on the coastal terrace overlooking Davenport Beach and the Pacific Ocean. The subject 3.04 acre parcel is a long rectangular shape (approximately 140 by 900 feet) with its northeastern length contiguous to Highway One (see Exhibit A). A Union Pacific railroad easement crosses the parcel at its southwestern boundary extending the length of the parcel. The southerly third of the parcel, at elevations of 30-60 feet Mean Sea Level (MSL), is a portion of the upper slope of San Vicente Creek and is vegetated with riparian species. The center of the parcel, at elevations of 65-72 feet MSL, contains an existing 13,127 square foot building and associated parking (referred to as the "lower level" in this report). The northerly third of the parcel is an undeveloped fragment of coastal terrace at elevations of 80-94 feet MSL (referred to as the "upper level" in this report). The upper level currently comprises an open field on the southern half and an informal dirt parking area used by the general public on the northern half.

Across this upper level, southbound travelers on Highway One through Davenport can view distant cliff faces to the south, glimpses of whitewater where the surf crashes against the shoreline, and a broad expanse of bluewater representing the outer reaches of Monterey Bay, as they pass the upper site. To the northwest of the subject site on the ocean side of the Highway is a vacant property owned by Lone Star where many people park informally to view the ocean or access various trails that meander across the adjacent coastal bluffs (immediately adjacent to the informal parking area on the project site). The land to the southeast of the riparian portion of the site rises to a marine terrace and is also vacant. Farther to the southeast this bluff top area is farmed in row crops. To the southwest beyond the railroad right-of-way are a vacant marine terrace, Davenport Beach, and the Pacific Ocean.

Access trails crisscross the coastal bluffs seaward of Highway One at this site. An existing trail to the southeast of the Applicant's building on the subject site is used by pedestrians to access the beach. A less direct route to the beach is achieved by traversing one of four eroded foot trails from the vacant northwest portion of the site down a steep slope to the railroad. These trails converge at trails paralleling the railroad tracks which continue northerly to the beach.

See Exhibit A for project location and air photos of the site showing the general Davenport environs.



## B. Santa Cruz County-Approved Project

As approved by the County, the proposed project is to reconstruct an existing 13,127 square foot structure and to construct a 9,791 square foot addition on the structure. The additional 9,791 square feet of floor area is primarily achieved by converting the existing mezzanine to a full second story. The height of the building is increased by three to six feet to achieve the interior clearance for a second story floor space within a portion of the building. The structure was a former agricultural packing shed that was converted to a dwelling and several workshops in 1974 under County Use Permit 74-124-U. The County permit was amended in 1984 to allow a juice manufacturing and wholesaling business to locate on the site. A portion of the building is currently leased to the juice company for use as a regional distribution facility. The building also continues to provide residential use.

The County approval includes: a Master Occupancy Program for a mixed use project of 22,918 square feet; a permit for excavation of 1,350 cubic yards of earth to construct a parking lot on the northern site to serve the proposed use; a rezoning of the property from the “C-1” (Neighborhood Commercial) Zone district to the “SU” (Special Use) zone district to allow mixed uses on the site; and a variance to reduce the front yard setback to 0 feet for a 53 lineal foot portion of the building. A separate greenhouse, boat-shaped residence, shower building, and tool shed were also approved. A total of 79 parking spaces (upper and lower lots combined) were approved.

See Exhibit B for the County-approved site plan and elevations.

The County approval is for a specific, three-phase project that includes exact uses and interior partitions. The following phases were approved under the County permit (as specified in County Condition I.A):

**Phase 1.** Reconstruction of the northwest half of the existing building to include restaurant/café, retail shops and conference meeting rooms on the upper floor and micro-juicery and warehouse and three offices on the lower floor and the new 66 vehicle space parking lot [on the northerly third of the parcel].

**Phase 2.** Reconstruction of the southeast half of the existing building to include one office and three visitor accommodation units on the upper floor (studio units) and one office, a day spa, two visitor accommodation units and one caretaker dwelling unit on the lower floor (two rooms with kitchens) and renovation of the existing parking [adjacent to the building] to provide for 13 vehicle spaces.

**Phase 3.** Construction of a detached greenhouse of 750 square foot and a “boat house” [in the form of a] dwelling.

In addition, the County also approved a Master Occupancy Program (Permit Condition VI) that specifies more generally the range of uses allowed by the permit over time: (1) restaurant/café; (2) micro-juicery and warehouse associated with a restaurant or café; (3) offices not to exceed 50% of the floor area of the building; (4) conference and seminar facilities; (5) neighborhood scale retail sales; (6) two residential dwelling units; (7) day spa, sauna, and hot tub uses; (8) Type A overnight visitor accommodations (i.e.,



hotels, inns, pensions, lodging houses, bed and breakfast inns, motels, and recreational housing units). Thus, the exact mix and location of uses listed in the three phases above and shown on the approved plans could change in the future. A County administrative permit (but no coastal permit amendment) would be required to allow changes that fit within these parameters of the Master Occupancy Program.

Finally, as approved by the County, the project includes dedication of two existing access trails, construction of an access stairway, provision of benches on the west side of the parking lot for public viewing use, and granting of a right-of-way for a possible future connection from the parking lot to the adjacent parking area.

See Exhibit C for the County's adopted findings and conditions.

### C. Applicant's Revised Project

The Applicant has recently proposed a revised project. The revised project proposes to support a mixed-use development of: ten overnight units with associated day spa, main office & caretaker's unit; restaurant with associated greenhouse and office; two retail shops for selling local artisan arts and crafts; one micro-juicery with warehousing space; and one dwelling unit in converted existing on-site boat (see Exhibit D). The Applicant has also proposed to substantially lower the grade of the upper parking lot and has incorporated design details such as stamped colored concrete and landscaping to protect scenic vistas (see Exhibit E). The Applicant has also proposed significant public access improvements, dedication of easements to the County for 3 vertical and one lateral trail, as well as five public parking spaces, a public pathway, a stairway down the bluff face, benches, and vista points (see Exhibit F). The entire project, including the upper parking lot would be designed to control polluted runoff.

See Exhibits D, E, and F for revised project site plan, elevations, floor plans, parking lot plans, before and after photo simulations, and access management plan.

### D. Coastal Development Permit Determination

#### 1. Special Coastal Community and Visual Issues

##### 1.1 Applicable LCP Special Community and Visual Resource Provisions

The Santa Cruz County LCP is protective of visual resources, especially along the shoreline, and of the special community character of Davenport itself. Many of the applicable LCP policies and objectives interrelate and overlap at the subject site. The LCP states:

##### **1.1.1 Visual Resources**

***Policy 5.10.10 Designation of Scenic Roads.** The following roads and highways are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection. State Highways: Route 1 – from San Mateo County to Monterey County...*



***Policy 5.10.2 Development Within Visual Resource Areas.*** Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section. Require discretionary review for all development within the visual resource area of Highway One, outside the Urban/Rural boundary, as designated on the GP/LCP Visual Resources Map and apply the design criteria of Section 13.20.130 of the County's zoning ordinance to such development.

***Policy 5.10.3 Protection of Public Vistas.*** Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

***Policy 5.10.6 Preserving Ocean Vistas.*** Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.

***Policy 5.10.9 Restoration of Scenic Areas.*** Require on-site restoration of visually blighted conditions as a mitigating condition of permit approval for new development. The type and amount of restoration shall be commensurate with the size of the project for which the permit is issued. Provide technical assistance for restoration of blighted areas.

***Objective 5.11 Open Space Preservation.*** To identify and preserve in open space uses those areas which are not suited to development due to the presence of natural resource values or physical development hazards.

***Policy 5.10.13 Landscaping Requirements.*** All grading and land disturbance projects visible from scenic roads shall conform to the following visual mitigation conditions:

- (a) Blend contours of finished surface with the adjacent natural terrain and landscape to achieve a smooth transition and natural appearance; and
- (b) Incorporate only characteristic or indigenous plant species appropriate for the areas

***Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility.*** The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.

***Section 13.20.130(d)(1) Beach Viewsheds, Blufftop Development.*** The following Design Criteria shall apply to all projects located on blufftops and visible from beaches: Blufftop development and landscaping...in rural areas shall be set back from the bluff edge a sufficient distance to be out of sight from the shoreline, or if infeasible, not visually intrusive.

***Section 13.11.074(b)(1) Access, Circulation and Parking, Parking Lot Design.*** It shall be an objective to reduce the visual impact and scale of interior driveways, parking and paving.



*(i) The site design shall minimize the visual impact of pavement and parked vehicles. Parking design shall be an integral element of the site design. Siting building toward the front or middle portion of the lot and parking areas to the rear or side of the lot is encouraged...*

*(ii) Parking areas shall be screened from public streets using landscaping, berms, fences, walls, buildings, and other means...*

*(iii) Variation in pavement width, the use of texture and color variation in paving materials, such as stamped concrete, stone, brick, pavers, exposed aggregate, or colored concrete is encouraged in parking lots to promote pedestrian safety and to minimize the visual impact of large expanses of pavement.*

### **1.1.2 Davenport Special Community**

***Policy 8.8.2. Coastal Special Community Designation.*** *Maintain a Coastal Special Community Designation for...Davenport...*

***Objective 8.8, Villages, Towns and Special Communities.*** *To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with the existing character of these areas.*

***Policy 8.8.4. Davenport Character.*** *Require new development to be consistent with the height bulk, scale, materials and setbacks of existing development: generally small scale, one or two story structures of wood construction.*

***Program 8.8(a) Davenport Special Community.*** *Enhance Davenport as a visual focus along Highway One. Prepare a landscaping and design plan, in accordance with the policies of this section, to achieve the following objectives: (1) Clear, coordinated circulation including: clear definition of stopping spaces (parking) along the highway frontage for both cars and bicycles; clearly articulated pedestrian crossings; adequate parking off Highway One, nearby, for existing and new uses, and for visitors; bicycle parking facilities to make the town a more attractive bicycle destination/stop over point. (2) Landscaping to enhance commercial areas, and to assist in definition of parking spaces and walkways, and in screening of parking as appropriate. (3) Emphasis on the area's whaling history and whale viewing opportunities. (4) Elimination of visually intrusive overhead wires. (5) Screening of the cement plant and its parking lot from the residential area to the north.*

In addition, LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as "Coastal Priority Sites – North Coast" (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

*Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing*



*vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.*

**Section 13.20.143(c) Davenport Special Community Design Criteria, Highway One Frontage.** *Development along Davenport's Highway One frontage shall conform to the following objectives:*

- 1. Davenport shall be emphasized as a rural community center and as a visitor serving area including: (i) Site design shall emphasize the historic assets of the town, its whaling history and whale viewing opportunities;...(iii) Landscaping shall tie together and accent the commercial uses, and assist in the definition of walkways and parking areas, and/or screens parking.*
- 2. Clear, coordinated circulation shall be developed including:...(iii) adequate parking off Highway One, for existing and new uses, and for visitors...*

### **1.1.3 Zoning Designation**

**Policy 2.13.4 Expansion of Neighborhood Commercial Designation.** *Only allow Neighborhood Commercial uses that are small scale, appropriate to a neighborhood or visitor service area and which will not have adverse traffic, noise, and aesthetic impacts on the adjacent residential areas...*

**Policy 2.13.6 Compatibility with Adjacent Development.** *Ensure compatibility between Neighborhood Commercial development and adjacent areas through Commercial Development Permit procedures to regulate siting, design, landscaping, signage, parking and circulation, drainage, and access...*

**Policy 2.16.7 Design of Visitor Accommodations.** *Ensure quality of design for visitor accommodations through Commercial Development Permit procedures, including the Zoning ordinance, to regulate density, signage, landscaping, buffering, on-site circulation and access, parking, and site and building design.*

**Section 13.10.383(a) Development Standards for the Special Use "SU" District, Site and Structural Dimensions....***For structures other than single-family dwellings and accessory structures, the building height limits, required site area, required yards, and other regulations for any use shall be in keeping with the requirements, restrictions or regulations provided in this Chapter (13.10) for the most restrictive district within which the use is allowed.*

**Section 13.10.384 Design Criteria for the Special Use "SU" District, Other [than residential] Uses.** *The design criteria for all other [than residential] uses shall be as provided in this Chapter for the most restrictive district within which the use is allowed.*





## **1.2 De Novo Special Community and Visual Resource Analysis**

The County's LCP is fiercely protective of coastal zone visual resources, and specifically protective of the views available from Highway One as it winds through the County from San Mateo to Monterey County lines. In fact, the LCP states that the public vista from Highway One "shall be afforded the highest level of protection" (LCP Policy 5.10.10). On top of this more general visual context, the LCP likewise is protective of the Town of Davenport, calling this enclave out as a "Coastal Special Community" (LCP Policy 8.8.2). New development is to be subservient to maintaining the community's character through preserving and enhancing Davenport's unique characteristics.

These LCP policies taken together require in effect that the impacts of new development in view of Highway One be minimized, and that new development in Davenport be designed and integrated into the existing community character and aesthetic. The questions of "small-scale" and Davenport's "community character" are thus central to the Commission's review of this project.

### **1.2.1 Community Character**

Davenport's tightly clustered residential and commercial development reflect the town's working heritage: whaling industry, agricultural shipping and processing, cement manufacture. In its layout and simplicity of architecture – devoid of pretense – Davenport is strongly reminiscent of other "company" mining or logging towns in the West. Today, the quarrying and processing of limestone for the manufacture of cement remain the economic backbone of the community. Some diversification is offered by small-scale artisan industries (e.g., glassblowing). More recently, the two-block commercial strip along the highway frontage continues the process of awakening to the opportunities afforded by the tourist industry.

Currently, the immense Lone Star Industries cement plant dominates Davenport. This huge industrial structure can be seen for miles and is in stark contrast to the rest of the town. In fact, notwithstanding the cement plant behemoth, Davenport's commercial frontage could be described as "eclectic frontier rustic" in character based on the variety of building styles, mostly two stories or equivalent height, which do not appear to be architect-designed. Remodeling along the highway frontage has more recently injected a more finished facade as seen from the highway. Within the County's defined Davenport urban enclave, the project site contains the only significant existing building on the seaward side of the highway. See air photos in Exhibit A.

### **1.2.2 Main Building**

When evaluating the character of an individual building as it relates to other buildings in a community, a number of factors need to be considered, including the building's proportions, layout, exterior finish and any architectural embellishments. Equally important are height, bulk, and other considerations of scale.

In this case, the existing building, which until recently housed the Odwalla juice works, is a long, low-profile wooden structure built as a railroad shipping shed and formerly in use as an agricultural packing and processing plant. It is visible in public views from the highway as well as the beach below. The



exterior of the building reflects its industrial purpose. It presents a totally functional, straightforward, unadorned appearance. As such, it is entirely consistent with – and contributes to – the previously-described community character.

In terms of scale, the building’s “footprint” (13,127 square feet) combined with its height (24 feet above grade) make it the largest existing building (outside the Lone Star cement plant) along Davenport’s Highway One frontage. The building’s scale is somewhat tempered, however, by its location generally below the grade of the highway (ranging from Highway grade at the building’s southernmost end to about 12 feet below highway grade at the north). In any case, the architectural style, scale, and visual prominence of this building seaward of the highway plays an important role in defining Davenport’s special character. In particular, as the biggest building of its kind, it establishes the appropriate limits of scale in this small-scale community.

The proposed development would rehabilitate and modify the existing structure at this location to accommodate (mostly) new uses – some of which would be visitor-serving uses. In order to accommodate the new uses, certain exterior and interior architectural modifications are proposed. The County-approved plans show that these modifications include increasing the roof height at the north end of the structure by three to six feet, resulting in a somewhat bulkier appearance and an increased “skyprint” (i.e., profile against the sky). The footprint of the existing structure would also be increased (by 234 square feet according to the County, although the project plans show an approximate 737 square foot increase). The new area of footprint would be in the area nearest to the Highway and would result in a setback from the Highway right-of-way of approximately 4 feet; the existing building currently extends approximately 4 feet into the right-of-way. The County approved a variance for a 0 foot setback as the proposed roof line would extend to the edge of the right of way. See Exhibit B.

As such, the effort to accommodate the new and increased level of uses results in a somewhat larger building profile, which in turn increases the amount of development between Highway One and the scenic shoreline of the Santa Cruz County coast. Additionally, the higher profile would result in a slight increase in the amount of development visible from the beach.

The Santa Cruz County LCP has two fundamental strategies for protecting the coast’s scenic resources: (1) minimize the amount of new development seaward of Highway One; and (2) insure that new development is appropriately scaled to fit into existing small-scale coastal communities. As previously detailed in the substantial issue findings for this project, the County-approved project raises concerns because it would enlarge the existing building and intensify development on the relatively undeveloped coastal bluffs of Davenport. However, as discussed below, further consideration of the proposed increase in the building height, in light of the mixed-use, visitor-serving uses being proposed, supports a finding that this increase is not inconsistent with the visual resource and community character protection policies of the LCP.

There is a technical issue concerning specific development standards for the building. The County staff analysis concluded that applicable zoning standards for the property are those that most closely correspond to the General Plan designation of the property – in this case, Neighborhood Commercial.



The County further assumed that the purpose of the SU district, to which the County rezoned this property, is to implement the Neighborhood Commercial LUP land use designation, which itself is implemented through the three zoning districts of C-1, CT, and PA. Under this interpretation, the most restrictive site and structural development standards of these three districts would be applicable to this project. The C-1, CT, and PA maximum height (35 feet) and minimum front yard setback (10 feet) requirements are identical to each other.

However, LCP Section 13.10.383(a) governing development standards for the SU district actually requires use of the most restrictive zoning district *within which the use is allowed*. This is to safeguard against the overly broad nature of the SU zoning district, the broad purpose of which is simply to allow for mixed use developments where appropriate, not implement the underlying land use designation per se (see detail discussion below). The following are the proposed project's non-residential uses, the most restrictive zoning district in which they are allowed, and the associated maximum height and minimum front yard setback.

Use	Most restrictive zoning district within which the use is allowed	Maximum height	Minimum front yard setback
Restaurant/café	PR	28'	30'
Micro-juicery (manufacturing) & warehouse	M-1,PA,VA,CT,C-1,C-2	35'	15'
Offices	VA,CT,C-1,C-2,C-4	35'	10'
Conference and seminar facilities	PR, RA, RR, R-1, RM	28'	40'
Retail sales, neighborhood-scale	PR (not full range of uses) VA,CT,C-1,C-2,C-4	28' 35'	30' 10'
Day spa, sauna, hot tub	PR	28'	30'
Type A overnight visitor accommodations	PR	28'	30'
Parking lots	PR	---	30'

The LCP Code section is not explicit in addressing which most restrictive district to use in the case of multiple uses within varying districts. The most direct reading is that the most restrictive of the zoning districts for any of the uses applies. In this case, the predominant uses are permitted in the PR district, which has the most restrictive height limit of 28 feet and the most restrictive front yard setback of 30 feet (other than for conference/seminar facilities). (Note also that both the lower portion of the property encompassing the San Vicente Creek riparian corridor and adjacent properties to the south and east are designated "PR.")

In this case, the building is currently at 24 feet. The County approved a 30 foot height without a variance, based on using the standards of the "C-1" district, which are not the most restrictive for the



uses in question. In any case, only the northwesternmost portion of the building which extends perpendicular to the Highway would be at 30 feet in height. The majority of the length of the building extending parallel to the Highway would be approximately 27 feet in height, within the height limits established by the most-restrictive district (PR). In addition, the building itself is, and would continue to be, partially recessed below Highway grade somewhat tempering its height. Moreover, the existing Myoporum hedge between the Highway and the main building is taller than the building and would screen the northern two-thirds of the structure, including all of the portion at 30 feet in height, from view. See County-approved elevations in Exhibit B. This approval is conditioned for an extension of the Myoporum hedge to the southeast to provide additional building screening (see Special Condition 3). Had the structure been developed under the C-1, CT, or PA implementing zone districts, the 35 foot height limit would have applied.

The rebuilt structure would be limited to two stories in height consistent with the prevailing two-story nature of the Davenport commercial frontage. About two-thirds of the building would be a maximum of 27 feet above finished grade and recessed below the level of the Highway and screened by vegetation. It also will be sheathed in wood siding or corrugated metal, and as approved by the County would maintain the overall exterior architectural character of the former agricultural packing shed. Note that the revised project elevations (Exhibit D) are the same as the County approved project elevations (Exhibit B). Such adaptive reuse of older buildings – especially those that contribute to community character and visitor-serving uses in this way – is generally encouraged and welcomed. County conditions for sensitive exterior design at this visually prominent location have been incorporated into Special Condition 3 of this approval.

Accordingly, a variance to allow for a height of 30 feet for a portion of the building is appropriate in this case. The variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity. The variance is also appropriate because there are special circumstances applicable to the property and because it does not constitute a grant of special privileges for the same reasons as indicated in the County setback variance findings (see Exhibit C). These County variance findings are incorporated by reference into these findings.

With regard to the building setback variance, the current building is significantly non-conforming under the County Code because it extends beyond the property line into the Highway One right-of-way. No major reconstruction is allowed to significantly non-conforming structures without specific findings being made under section 13.10.265(J). Given that the right-of-way into which the current building intrudes may be needed in the future for public or vehicular access purposes, it would be difficult to make such findings. Instead, the County the granted a variance to allow for a zero foot setback, thereby requiring the portion of the building within the Caltrans right-of-way to be removed, as shown on the Applicant's plans. Actually, the County-approved plans show about a four foot setback from the property line at the Highway One right-of-way to the base of the structure; the roof of the building extends closer (see Exhibit B). In addition, the area of setback variance is approximately 12 feet below the grade of the Highway. Therefore, by maintaining a four foot setback from the property line (and zero



foot to the overhanging roof), the variance is appropriate for the reasons stated in the County's variance findings (see Exhibit C). Again, these County variance findings are incorporated by reference into these findings.

The proposed main building requires two variances: to allow a 30 foot height for a portion of the building as opposed to a 28 foot height; and to allow a 0 foot setback (4 feet to the building itself) rather than a 30 foot setback for approximately 50 feet of the building's Highway One frontage. When analyzed as a whole, including the enhanced visitor serving amenities and the public access provisions being provided, these variances are consistent with the LCP. This can be further ensured by maintaining the rustic appearance through the use of earthen tone colors and the overall replication of an agricultural building as provided by the County's design related conditions. Other specific County-required design measures are also appropriate (minimized night lighting, minimal rustic fencing, landscape screening, colorized concrete, underground utilities, screening for rooftop equipment and trash receptacles, et cetera). These measures can be accomplished by retaining such County conditions as modified (see Special Condition 3). As conditioned, the proposed main building is consistent with the small scale and special community LCP policies cited above.

### **1.2.3 Lower Parking Lot**

The lower level (southeast) parking lot area would be constructed directly adjacent to the Highway One road right-of-way. The existing lower parking lot is likewise set back zero feet from the right-of-way. The most restrictive front yard setback standard for a parking lot is 30 feet in the PR zoning district where the predominant uses are allowed. As such, the proposed lower parking lot would be constructed 30 feet into the required minimum setback; the County did not process a variance for the zero foot parking lot setback. However, inasmuch as such a variance: would be in harmony with the general intent and purpose of zoning objectives; would not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity; and would not constitute a grant of special privileges for the same reasons as indicated in the County setback variance findings because there are special circumstances applicable to the property, a variance to allow a zero setback for the lower parking lot is appropriate. Had the structure been developed under the C-1, CT, or PA implementing zone districts, the 10 foot front yard setback would have applied. The County setback variance findings (see Exhibit C) are incorporated by reference into these findings.

### **1.2.4 Upper Parking Lot**

Beyond the main building, the parking lot on the upper portion of the site entails significant impacts on visual and community character resources in Davenport. The difficulty with the parking lot is that it directly raises the conflict between the promotion of visitor-serving uses, which tend to be parking intensive, and the protection of visual resources and community character. Whatever uses are approved on the site, the project needs to meet County parking standards. Therefore, in order to accommodate the proposed new types of use, the County's approval provided for expanded parking facilities. These facilities include approximately 13 spaces on the already-paved lower level, and a larger (66-space) parking lot on the upper level (see Exhibit B).



However, the County-required upper-level parking facility would significantly impact Davenport's community character. At present, the upper level is an unpaved, undeveloped fragment of coastal terrace, on part of which the owner allows informal public parking and on the other maintains a grassy open space (see Exhibit A air photos). The project as approved by the County would result in this vacant area being converted to a formal, paved, landscaped parking lot paralleling the seaward side of Highway One. This is in contrast to the extremely informal rural look of parking that exists in the rest of the town.

In the May 1999 substantial issue recommendation, Coastal Commission staff had recommended a reduced upper parking alternative that would have preserved more of the upper grassy area and further mitigated the visual impact of parked vehicles (through cutting the upper parking area by about two thirds; shortening and narrowing and further recessing it). The result would have been a less intensive development, while still allowing some mix of uses and further emphasizing those of a visitor nature.

In the July 1999 de novo recommendation, Coastal Commission staff recommended that upper parking lot area be removed from the project altogether. This would eliminate the visual concerns associated with a new developed parking lot and further reduce the intensity of use of the building. Under this alternative, the mix of uses would have to have been scaled back considerably because there are no other parking options available to the Applicant except on the lower site. The Commission is not aware of any other opportunities for alternative parking (e.g., space in immediate vicinity or further away served by shuttle) and the Applicant has indicated that there are none. In any case, any parking on the inland side of Highway One would be problematic, because it would require patrons to cross the busy highway with fast moving traffic and limited sight distance at this location (because the grade of the Highway). When the Commission continued the de novo hearing in July 1999, Commission staff was directed to consult with the Applicant on a modified project including some upper level parking.

A separate option to completely deny the proposed project, as requested by several citizens, would not address the need to provide some land use guidance for the site. The current approved use is for a non-priority juice manufacturing facility that has moved away with direction to transition to visitor uses. This is an important coastal site, both within the local Davenport context and the overall coastline, for which an appropriate mix of visitor serving uses should be pursued. Currently, an amazing view from the existing building in this coastal setting seaward of the Highway is unavailable to the public (see Exhibit D, page 13). Siting opportunities for developing such a public amenity are rare in this stretch of the coast and should be pursued consistent with the LCP objectives.

In any event, while mitigations (recessing, landscaping, lighting limitations, and stamped concrete) were required by the County, they are not sufficient to conceal the assembled mass of motor vehicles and would inevitably alter the informality of the existing parking lot. Such upscale improvements are driven by the need to accommodate the increased intensity of use, but will also tend to change the existing community character. This alteration of community character will result both from substituting a prettified "improved" landscape for one which is rough, dirty, and "rustic," and from increasing the collected presence of parked motor vehicles in public view. Reflective glare from the sun shining on the vehicles will detract from the visitor experience and the amassed vehicles in the parking lot, when full, would directly impede the whitewater component of this vista. Thus, the public viewshed would be



impaired both by the “visual clutter” effect of the parked automobiles, and by direct blockage of the line of sight to the shoreline, for both travelers on the highway and pedestrians.

The LCP dictates that public view protection is paramount at this site. Again, there are elements of the County-approved project, especially lowering of the upper parking lot and the proposed and required landscape screening, that attempt to satisfy this policy directive. The Applicant has since proposed a project alternative that shows a smaller 50 space parking lot, recessed approximately 5 feet below the grade of the southern edge of Highway One (see Exhibits D and E). The Applicant’s current proposal also includes a 3 foot high perimeter rock wall. The lowering of the parking lot below grade is welcome. However, the proposed parking lot will still detract from the overall seaward view enjoyed by southbound travelers and, when occupied by vehicles, will change the frame of significant ocean views as seen from Highway One as it passes through Davenport. This southbound public view includes distant cliff faces to the south, glimpses of whitewater where the surf crashes against the shoreline, and a broad expanse of bluewater representing the outer reaches of Monterey Bay.

Overall, there are three visual imperatives related to the approved upper parking lot. One is the necessity to protect the view corridor to the rocky shoreline from where it is visible from Highway One. The second is the general necessity to protect the blufftop’s open space character. The third is to maintain Davenport’s rustic, small-scale community character.

These objectives can be met by: (1) allowing for a reduced parking area building envelope (see Exhibit G); (2) concentrating parking in the portion of the site currently used for informal parking and the area nearest to the highway frontage; (3) further lowering the parking lot below the vantage point of Highway One, as proposed by the Applicant; (4) maintaining landscape screening which softens the edge of the parking lot and screens cars from view; and (5) breaking up the overall massing of vehicles in the reduced parking lot through increasing the number of landscaped medians between cars. See Special Condition 3.

Reducing the size of the parking lot and concentrating parking to the northwest and along the highway frontage allows a larger portion of this upper grassed area to retain its open space character. Based upon this building envelope and standard parking space sizes, the Commission estimates that approximately 36 parking spaces could be accommodated in a reduced upper parking lot and approximately 20 spaces could be constructed in the lower lot. By limiting structural development in this way, the important view corridor to the shoreline can be protected consistent with LCP Policies 5.10.3 and 5.10.6 and LCP Objective 5.11.

While not all vehicles (especially large ones) can be totally concealed, the combination of recessing the reduced parking area by up to five feet combined with screening vegetation should result in the parked vehicles being substantially hidden when viewed from the Highway. However, given that some of the parking area will unavoidably be visible through the entry ramp and the parking lot and vehicles will still be visible to pedestrians, keeping the County condition for colorized concrete is necessary to partially mitigate its visual impacts. Also, if a retaining wall is needed for the recessed parking lot, then it too should be designed, colorized, and landscaped to be unobtrusive.



In the case of the Applicant's proposed 3 foot tall parking lot perimeter rock wall, an argument could be made that it too would help to screen vehicles from public view. However, it would undeniably alter the local landscape and would create a stark monolithic barrier on the seaward side of the Highway. Such a barrier, while welcome as a screen, is inappropriate to the small scale Davenport community character. More to scale would be a soft landscaped edge which provides screening while also organically delineating the parking lot proper. Rustic split rail fencing, as approved by the County, remains an appropriate means to protect pedestrians from the railroad cut on the seaward side of the parking lot. To ensure that such fencing is rustic in nature, this approval includes conditions for use of rough hewn, unpainted timbers that will naturally weather and blend into the natural environment (e.g., cedar split rail fence).

To further emphasize the rustic, small scale nature of a such a parking lot, and to further protect the public viewshed, additional landscape medians within the parking lot are necessary. These will help to break up the massing of parked cars, and will allow for less paving and more landscaped area. Such a configuration helps to make the parking lot less like a broad expanse of pavement covered with cars, and more like an informal clustering of parked cars which mimics some of the existing informal nature of parking on the seaward side of Highway One in Davenport.

In addition, to further mitigate impacts from vehicle massing, wider standard spaces (18' x 8½') should be concentrated on the upper parking lot and compact spaces (16' x 7½') concentrated on the lower lot below (see Land Use finding below for more detailed information on parking space requirements). Although this may seem counterintuitive inasmuch as larger vehicles are meant to park in standard spaces (and smaller ones in compact spaces), as a practical matter, vehicles of all sizes tend to park in both types of spaces. The effect of larger width spaces, therefore, is to relieve vehicle massing in the viewshed.

See Special Condition for required parking lot standards, landscaping and lighting.

The Commission estimates that by using the established parking lot building envelop (see Exhibit G), providing for the additional landscaped medians between spaces, and concentrating allowable compact spaces in the lower lot (as discussed above), the following configuration is feasible:

Parking Space Types	Upper Parking	Lower Parking	Total Parking
Full Size (18' x 8½')	28	8	<b>36</b>
Compact (16' x 7½')	6	11	<b>17</b>
Disabled	2	1	<b>3</b>
<b>Total Parking Spaces:</b>	<b>36</b>	<b>20</b>	<b>56</b>

Finally, the majority of the upper level (northwest) parking lot area would be constructed within 10 feet of Highway One road right-of-way, other than the portion closest to the main building which would be set back approximately 2½ feet to accommodate handicapped parking. As discussed above, the most





restrictive front yard setback standard for a parking lot is 30 feet in the PR zoning district where the predominant proposed uses are allowed. As such, the parking lot would be constructed 27½ feet into a portion, and about 20 feet into the majority, of the required minimum setback; the County did not process a variance for this reduced parking lot setback. However, in this case, ‘tucking’ vehicles as close as possible to the Highway frontage, recessed below grade, is preferable to pushing the parking lot further towards the bluff edge and encumbering more of the bluff with pavement to maintain a 30 feet setback. Such a measure helps to retain the ocean and bluff vista to the maximum extent feasible consistent with the LCP. Moreover, inasmuch as such a variance would be in harmony with the general intent and purpose of zoning objectives; would not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity; and would not constitute a grant of special privileges for the same reasons as indicated in the County setback variance findings because there are special circumstances applicable to the property, a variance to allow a 10 foot setback for most of the upper parking lot, and a 2½ foot setback for about 26 lineal feet, is appropriate. Had the structure been developed under the C-1, CT, or PA implementing zone districts, the 10 foot front yard setback would have applied. The County setback variance findings (see Exhibit C) are incorporated by reference into these findings.

As conditioned, the Highway One view corridor, the blufftop’s open space character, and Davenport’s rustic, small-scale community character are all maintained with the modified and reduced in scale upper parking lot area. Such a parking lot would be compatible with this scenic location to the maximum extent possible while still accommodating a visitor serving mixed use facility at the site. Only as conditioned can the proposed upper parking lot area be found consistent with the small scale and special community LCP policies cited above.

### **1.2.5 Signing**

Pursuant to LCP Section 13.10.384 for the “SU” zoning district, and as discussed above, the site development standards of the most restrictive district govern the project, not the standards of the “C-1” district. Accordingly, with regards to signing, the “PR” district standards apply which limit a site to only one sign up to 12 sq. ft., rather the 50 sq. ft. of the C-1 district, as was indicated in County condition IV.A.6 (see Exhibit C). Therefore, a variance is needed to allow additional signs or greater size. A variance is appropriate in this case for several reasons: (1) the lower entrance is somewhat hidden on the far end the property for southbound motorists and a second sign on the upper lot would help to orient visitors to the site; (2) the uses allowed are visitor-oriented commercial, not just public recreational; (3) there are potentially multiple uses (4) the site was previously zoned C-1; (5) and the building itself is largely hidden and the mixed use development would benefit from a larger sized sign.

The County approved two signs totaling 50 square feet, or an average of 25 square feet. This size is appropriate at the main entrance for the reasons just stated; however, the upper area’s sign should be no more than 12 square feet, the limit established in the PR zoning district, due to its visual sensitivity and the conditioned parking restriction. The signs need to be designed and sited so as to minimize intrusion on the view, as conditioned (see Special Condition 3, County Condition IV.A.6). Thus, the variance will



be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity. The variance is also appropriate because there are special circumstances applicable to the property and because it does not constitute a grant of special privileges for the same reasons as indicated in the County setback variance findings (see Exhibit C), which are incorporated by reference in this approval (with the substitution of the “PR” standards for the “C-1 standards, and the greater sign area for the setback).

A final sign plan showing dimensions, location, material and colors of all signs must be submitted for sign-off to ensure visual and community compatibility (see Special Condition 3). In any case, no sign illumination is allowed and plastic shall not be used as a sign material. Signs shall be designed to be consistent with the architectural character of the main building and as an integral part of the landscape area. As conditioned, the proposed signs are consistent with the small scale and special community LCP policies cited above.

### **1.2.6 Vegetation and Views**

Concerns were raised at the previous Commission hearings in May and July 1999 regarding site vegetation. At the upper portion of the lot, there is currently little substantial vegetation. There are some low-growing shrubs near the existing building, mostly in the Caltrans right-of-way. The project approved by the County included screening vegetation for the parking lot no higher than 2½ feet tall. The Applicant currently proposes a 3-foot stone mortared wall around the perimeter of the upper parking lot area with vegetation ground cover up to 2-feet tall inside of the wall and up to 1 foot tall on the Highway side outside the wall. As described above, the rock wall is not appropriate at this location because it would alter the local landscape inconsistent with Davenport’s character and would block views (see above upper parking lot discussion). However, a landscape buffer is appropriate and conducive to softening the edges of the parking area and providing screening of vehicles. This approval is conditioned for low vegetation to soften the edges of the parking lot consistent with the LCP design standards cited above for parking lots at this sensitive Davenport location (see Special Condition 3).

There are existing cypress hedges on both the north and south sides of the building. The hedge to the north is immediately adjacent to the existing building while the hedge to the south extends along the existing beach access path between the building and the San Vicente Creek riparian corridor. The County required that these hedges be maintained at no more than 9 feet high (see County Condition VI.B, Exhibit C). These trees provide valuable screening while not impinging on views to the ocean from Highway One. Although not native to this area, they are a typical landscaping species, drought-tolerant and well-suited to the ocean climate. Replacing them would be disruptive and not necessary to mitigate project impacts.

Similarly, there is a hedge of *Myoporum* within the Caltrans right-of-way fronting of the building. Some concern was raised at the July 1999 Commission hearing that these *Myoporum* trees were an invasive exotic that may move into, and ultimately take over, the San Vicente Creek riparian corridor. The Applicant has subsequently had the project’s consulting arborist, Don Cox, evaluate these trees (letter



report dated July 25, 1999). The arborist did not locate any *Myoporum* trees or sprouts in the riparian area and has concluded that:

*In my over 30 years of professional tree care experience I have not found Myoporum laetum to be an aggressive spreading species. For this report, I researched my reference books and found no indication to that effect. I also asked several certified arborist associations their opinion, and all answered in the negative. Included in my survey of professionals is Nigel Belton, local consulting arborist and owner of Arbor Art. Nigel is a native of New Zealand as is Myoporum laetum. He confirmed that "in their native habitat this is not a tree that spreads rapidly by seed or suckers."...My conclusion is that these trees are an appropriate planting, an asset to the property and should not be considered a threat to the riparian corridor.*

The *Myoporum* hedge would be extended south slightly towards the lower level site entrance to provide additional screening. The County required that it be maintained at a height not exceeding that of the building (see County Condition VI.B, Exhibit C). Even if maintenance is lax, no significant views of the ocean are jeopardized by these trees and they would not naturally grow much taller. Again, they are a good landscape tree for the area being drought and wind tolerant. Replacing or removing them would be disruptive and not necessary to mitigate project impacts. In fact, given their screening attributes, this hedge should be extended to the southeast to mitigate the view of the new parking lot and building on the Highway frontage (see Special Condition 3). The Applicant has supplied an encroachment permit from Caltrans for the existing *Myoporum* hedge. However, this reproduction of the 1973 document came from microfiche and is nearly impossible to decipher. Accordingly, the condition requires a revised Caltrans review and approval for any landscaping in the right-of-way (again, see Special Condition 3).

As to views down Davenport Avenue to the ocean, they will be opened somewhat by the necessity to cut some of the cypress hedge to move the driveway opening southward to match up with Davenport Avenue. This new opening would expose the existing and proposed structures in this area (i.e., boathouse, shed, and greenhouse) under the County approval. However, as of the date of this staff report, the Applicant's revised project proposal shows these structures moved to the southeast out of this Davenport Avenue viewshed where they would be screened by the existing cypress hedge running along the beach access path (see Exhibit D). The existing tree towards the Highway in this view corridor would remain, though a branch would be pruned to allow for vehicular clearance. The existing hedge area adjacent to the railroad tracks would tend to continue to block ocean views somewhat, but no more so than the existing cypress hedge does now from Davenport Road. Ultimately, a net public view corridor enhancement would be realized.

In any case, in order to ensure that the landscaping at the site is consistent with maintaining the public viewshed across the subject site from Highway One, this approval is conditioned for a landscaping monitoring report (see Special Condition 9).

In sum, as so conditioned in all of the ways mentioned, the proposed project is consistent with the cited Santa Cruz County LCP visual resource and special community protection policies and development standards. The Commission finds that, as conditioned, the proposed project is consistent with the



relevant local coastal program policies discussed in this finding.

## 2. Land Use Types

### 2.1 Applicable Coastal Act and LCP Land Use Provisions

The Santa Cruz County LCP land use plan map designates the site as “Neighborhood Commercial” for that portion of the property containing the existing building as well as the upper area of the lot proposed for parking; this section of the property is zoned “C-1” (Neighborhood Commercial). The southern portion of the property (containing the riparian corridor associated with the San Vicente Creek rivermouth) is designated “Existing Parks and Recreation” in the land use plan and zoned “PR” (Park, Recreation, and Open Space). The County-approved project includes a rezoning the C-1 portion of the property to “SU” (Special Use). The County LCP states:

#### **2.1.1 Neighborhood Commercial Land Use Plan Designation**

***Objective 2.13 Neighborhood Commercial Designation (C-N).** To provide compact, conveniently-located, and well-designed shopping and service uses to meet the needs of individual urban neighborhoods, rural communities and visitors.*

***Policy 2.13.1 Location of Neighborhood Commercial Uses.** Designate on the General Plan and LCP Land Use Maps those areas existing as, or suitable for, Neighborhood Commercial uses to provide small-scale neighborhood and visitor serving businesses within walking distance of urban neighborhoods, visitor attractions, or centrally located to serve rural communities.*

***Policy 2.13.2 Location of Visitor Serving Neighborhood Commercial Uses.** Designate on the General Plan and LCP Land Use Maps Neighborhood Commercial areas specifically suitable for visitor serving commercial uses, based on: proximity to public beaches, the yacht harbor, state parks, or other tourist or recreational attractions.*

***Policy 2.13.3 Allowed Uses in the Neighborhood Commercial Designation.** Allow a variety of retail and service facilities, including neighborhood or visitor oriented retail sales, recreational equipment sales, personal services, limited offices, restaurants, community facilities including child care facilities, schools and studios, rental services, and similar types of retail and service activities.*

***Policy 2.13.4 Expansion of Neighborhood Commercial Designation.** Only allow Neighborhood Commercial uses that are small scale, appropriate to a neighborhood or visitor service area, and which will not have adverse traffic, noise and aesthetic impacts on the adjacent residential areas. Allow the expansion of Neighborhood Commercial land use designations only where: a need and market exists, and the use will not adversely affect adjacent residential neighborhoods.*

***Policy 2.13.5(a) Visitor Services within Coastal Special Communities.** Encourage the provision of visitor serving commercial services within Coastal Special Communities as follows:*



*Davenport: Highway One frontage.*

***Section 13.10.170(d) Consistent Zone Districts (C-N Neighborhood Commercial).*** *The following table denotes the basic and combining zone districts which implement and are consistent with the various General Plan land use, resource and constraint designations. Rezoning of property to a zone district which is shown in the following Zone Implementation Table as implementing the designation applicable to the property, shall not constitute an amendment of the Local Coastal Program. ...[For] General Plan/Local Coastal Program Land Use Designation C-N Neighborhood Commercial, Zone District[s are:]*

*C-1 - Neighborhood Commercial*

*CT - Tourist Commercial*

*PA - Professional and Administrative Offices*

*...[For] All Land Use Designations, Zone District[s are:]*

*PF - Public Facilities*

*SU - Special Use*

***Section 13.10.331(e) Specific “C-1” Neighborhood Commercial District Purposes.*** *To provide compact and conveniently located shopping and service uses to meet the limited needs within walking distance of individual urban neighborhoods or centrally located to serve rural communities. Neighborhood Commercial uses and facilities are intended to be of a small scale, with a demonstrated local need or market, appropriate to a neighborhood service area, and to have minimal adverse traffic, noise, or aesthetic impacts on the adjacent residential areas.*

***Section 13.10.331(d) Specific “CT” Tourist Commercial District Purposes.*** *To encourage and recognize a narrow range of visitor serving uses in appropriate locations in the County on major transportation corridors or in commercial centers where properties have a land use designation on the General Plan of Neighborhood or Community Commercial. Visitor serving uses allowed in this zone district include primarily food services, auto fueling, visitor accommodations, and related accessory uses.*

### **2.1.2 “SU” Zoning District**

***Section 13.10.381(a) Purposes of the Special Use “SU” District, General.*** *To provide for and regulate the use of land for which flexibility of use and regulation are necessary to ensure consistency with the General Plan, and to encourage the planning of large parcels to achieve integrated design of major developments, good land use planning, and protection of open space, resource, and environmental values.*

***Section 13.10.381(c) Purposes of the Special Use “SU” District, Mixed Uses.*** *To provide for the development of lands which are designated on the General Plan for mixed uses, and where the specific portions of the land reserved for each use have not yet been specified or determined in detail.*



*Section 13.10.382(a)(2) Uses in the Special Use “SU” District, Allowed Uses. All uses allowed in Zone District’s other than RA and R-1 shall be allowed in the Special Use “SU” Zone District where consistent with the General Plan...*

### **2.1.3 Visitor Serving Uses**

***Policy 2.16.1 Location of Visitor Accommodation Designations.** Designate on the General Plan LCP Land Use Maps those areas existing as or suitable for Visitor Accommodations. Require all visitor serving facilities to be located where adequate access and public services and facilities are available, to be designed and operated to be compatible with adjacent land uses, including residential uses, to utilize and complement the scenic and natural setting of the area, and to provide proper management and protection of the environment.*

***Policy 2.22.1 Priority of Uses Within the Coastal Zone.** Maintain a hierarchy of land use priorities within the Coastal Zone: First Priority: Agriculture and coastal-dependent industry; Second Priority: Recreation, including parks; visitor serving commercial uses; and coastal recreation facilities; Third Priority: Private residential, general industrial, and general commercial uses.*

***Policy 2.22.2 Maintaining Priority Uses.** Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.*

***Policy 8.8.3(a) Tourist Commercial Concessions.** Encourage the provision of tourist commercial services within Coastal Special Communities, as follows: Davenport: Highway One frontage.*

### **2.1.4 Parking Requirements**

***Objective 3.3 Balanced Parking Supply.** To require sufficient parking to meet demand, but limit parking supply and use available parking as efficiently as possible to support trip reduction objectives. Give higher priority to special groups, such as carpoolers and disabled.*

County Code **Section 13.10.552** specifies the number of off-street vehicular and bicycle parking spaces required for different uses. Applicable vehicular parking space requirements are as follows:

- *1 space per 200 square feet of office or retail*
- *1 space per 100 square feet of restaurant plus .3 per employee*
- *1.1 space per unit or 1 space per habitable room of visitor accommodation (whichever is more)*
- *1 space per 1,000 square feet of warehouse*
- *1 space per 600 square feet of manufacturing with a minimum of 2*
- *1 space per 33 square feet of meeting room*
- *1 space per 200 square feet of public buildings and grounds*



- 2 space per one-bedroom residence

**Section 13.10.552(e) Handicapped Parking.** *Parking spaces specifically designed, located and reserved for vehicles licensed by the State for use by the handicapped shall be provided in each parking facility of 10 or more spaces according to the following table:*

<u>Total spaces required</u>	<u>Maximum number of handicapped spaces required</u>
10-49	1
50-99	2

**Section 13.10.553(b) Reductions in Required Parking.** *Parking facilities for two or more uses that participate in a parking agreement may be shared thereby reducing the overall parking requirement for the uses if their entrances are located within three hundred (300) feet of the parking facility, if their hours of peak parking do not coincide, and/or it can be demonstrated that the nature or number of uses of the facilities will result in multipurpose trips. Reductions in the total number of parking spaces may be made according to the following table:*

<u>Number of independent property users</u>	<u>Reduction allowed</u>
2-4	10%
5-7	15%
8 or more	20%

**Section 13.10.553(e) Compact Car Parking.** *A proportion of the total spaces otherwise required by the Schedule of Offstreet Parking Requirements may be designed and marked for compact car use according to the following table:*

<u>Total spaces required</u>	<u>Allowable Percentage of Compact Car Spaces</u>
6-50	10%
51-80	30%
81 or more	40%

### **2.1.5 Coastal Act Policies**

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Because this project is located seaward of the first through public road (Highway One), for public access and recreation issues the standard of review is not only the certified LCP but also the access and recreation policies of the Coastal Act.

**Section 30221:** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately*



*provided for in the area.*

***Section 30222:** The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

***Section 30223:** Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

## **2.2 De Novo Land Use Analysis**

### **2.2.1 Proposed Mixed Uses**

The proposed project would rezone the property from C-1 to SU. As seen above, such a rezoning does not constitute an LCP amendment (LCP Zoning Code Section 13.10.170(d)). The underlying Neighborhood Commercial LUP designation for the site would not change.

The purpose for the SU rezone is to specifically allow for a mix of uses on the site. The mix of uses proposed are allowed within the three implementing zoning districts for the Neighborhood Commercial LUP designation (C-1, CT, and PA). However, none of these implementing zoning districts alone can account for the range of proposed uses. The existing C-1 zoning does not allow for visitor accommodations. Accordingly, the SU district appears to be a good choice for this site since it allows for a range and mix of uses appropriate to the Neighborhood Commercial designation, including visitor accommodations. Under the LCP, such visitor serving use is a high priority for this important shoreline location. In fact, many other cited LCP policies (e.g., 2.13.3, 2.13.5, 8.8.3) clearly contemplate visitor uses for such an area. Also, given that the LCP is based on the Coastal Act and its support for visitor uses, and given the historic designations on the site, the approved inclusion of a visitor component is appropriate.

About half of the County-approved uses can be considered visitor serving (including the restaurant, five overnight accommodations, spa, and possibly the meeting rooms and shops). Although the spa is for the use of the overnight guests and not the general public, it would still be considered visitor-serving. Of the remaining uses, the offices fall within the list of appropriate neighborhood uses, although there is nothing in the approval to limit them to neighborhood-oriented or visitor-serving purposes. Residential uses are not listed as a Neighborhood Commercial use in the land use plan, but residences are allowed in most zoning districts. The warehouse and manufacturing do not appear as appropriate neighborhood commercial uses. However, they are a continuation of the previously-approved use. To the extent that the juicery supplies the restaurant and/or store and is available for public tours, it too could be considered visitor-serving.

In working with Commission staff since the July 1999 hearing, the Applicant has since proposed a revised project. This revised project was first brought forward at the Commission's July 1999 meeting, and has been modified by the Applicant since then (see Exhibits D, E, and F for the Applicant's revised





project). As currently structured as of the date of the staff report, the current revised proposal would result in the following uses:

- Ten overnight units with associated day spa, main office & caretaker's unit
- Restaurant with associated greenhouse and office
- Two retail shops for selling local artisan arts and crafts
- One micro-juicery with warehousing space
- One dwelling unit in converted existing on-site boat

This proposed mix of uses would be predominately visitor-serving and small scale commercial operations consistent with the LUP's Neighborhood Commercial designation. Only the one off-site residential unit (in the existing boat that would be converted) is not visitor-serving. However, residential uses are allowed in the C-1 and PA implementing zoning districts. To the extent the juicery supplies juice to the on-site restaurant and/or to the general public as a cottage industry, this use can be considered small scale visitor serving commercial. These uses are consistent with the LCP direction for this site as shown in the above applicable policies.

Nonetheless, various alternative use mixes in the main building have been presented at different times in the permitting process. In order to ensure that such LCP priorities (e.g., visitor serving) are maintained in the future, this approval is conditioned to clarify for the record and maintain this mix of uses; any changes to the uses and/or configuration of the main structure would require a Commission amendment to this permit (see Special Condition 1). For example, regarding warehousing and manufacturing, the County's condition (County Condition VI.A.2) linked their use to a food service use so that they could be considered as supporting a visitor-serving use. However, this condition was for general restaurant and café uses, not specific to this site. Such uses are appropriate at this sensitive location provided they are linked either to the site and/or the general Davenport environs. In this way, these uses can be considered small scale cottage industries contributing to the special Davenport community character. Furthermore, in order to ensure that any office space in the proposed building is allotted only to serve priority uses, this approval is conditioned that the offices serve the permitted visitor serving uses on site and/or agricultural or maritime uses, which are also priorities under the Coastal Act. See Special Conditions 1 and 6(b).

### **2.2.2 Parking Requirements**

In general, the mix of uses approved by the County as well as the above-described current proposal by the Applicant represent appropriate uses for this special site adjacent to the Highway. In particular, the visitor serving component is a high priority. However, the project should not compromise scenic protection and the Davenport special community simply because high priority visitor serving amenities would be provided. In fact, as previously discussed, the project needs to be scaled back to reduce adverse visual and community character impacts. The primary concern being the development of a parking lot on the undeveloped upper terrace of the site.



Overall, in order to reduce the upper parking lot to protect views and community character consistent with the LCP, the parking requirements for the ultimate types and amount of approved uses must also meet County parking standards. With a project and parking lot reduced in scale as discussed in the previous finding, the Commission estimates that the Applicant will have a maximum of 36 spaces available on the upper portion of the parcel and approximately 20 spaces on the lower portion: a total of 56 spaces.

The Applicant's current proposal (as of the date of this staff report) would require at a minimum the following parking spaces as calculated from the submitted plans:

Applicant-proposed use	Parking factor per LCP Section 13.10.552	*Parking spaces required
Ten overnight units with associated day spa, main office & caretaker's unit	10 units & 1 caretaker's unit @ 1.1/unit 615 sq.ft. office @ 1 space /200 sq.ft.	12.10 3.08
Restaurant with associated greenhouse and office	2,221 sq.ft. restaurant @ 1 space/100 sq.ft. 350 sq.ft. office @ 1 space/200 sq.ft. 10 employees @ .3 spaces/employee	22.21 1.75 3.00
Two retail shops	1,076 sq.ft. of retail @ 1 space/200 sq.ft.	5.38
One micro-juicery with warehousing space	885 sq.ft. juicery @ 1 space/600 sq.ft. (min 2) 4990 sq.ft. warehouse @ 1 space/1000 sq.ft.	2.00 4.99
One dwelling unit in on-site boat	One bedroom @ 2 spaces per 1 bedroom	2.00
	<b>Subtotal</b>	<b>56.51</b>
Public parking (see findings below)		5
	<b>Total</b>	<b>61.51</b>
Mixed use reduction for 5 to 7 uses	15%	<9.23>
	<b>Total</b>	<b>52.28</b>

\* Note: This calculation excludes: (1) storage spaces as provided by LCP Section 13.10.552; and (2) interior circulation areas which do not by themselves draw users within such a mixed use development.

The above calculations exclude interior circulation areas which do not by themselves draw users within such a mixed use development. The County's approval had calculated the parking requirement for this interior space as 1 parking space per 200 square feet space. However, the County Code is silent on how such space is to be calculated for parking purposes in a mixed use development. It can be argued that such interior space is not attracting users and, as such, does not require excess parking supply. There may be times when this is not the case (for example, an art show on hallway walls), but, for the most part, such demand is likely zero.



As provided for by LCP Section 13.10.553(b), the above calculation includes a 15% reduction for 5 to 7 different uses: (1) visitor units; (2) restaurant; (3) retail shops; (4) manufacturing and warehousing; (5) residential; and (6) general public use. Such a reduction is appropriate for two reasons. First, the mix of uses will tend to draw users at different times: weekday concentration for warehousing and manufacturing, weekend for overnight units and restaurant; nighttime for overnight units and restaurant, daytime for retail, warehousing and manufacturing. Second, the mix of uses will tend to draw crossover users who will frequent more than one establishment, but use only one parking space per trip: overnight visitors, residents, general public visitors, warehouse and manufacturing employees who then also frequent the restaurant and retail shops; retail shoppers also drawn into the restaurant; et cetera. Such efficient use of spaces is reflected in LCP Parking Objective 3.3. In addition, inasmuch as such a LCP-allowed reduction allows for a smaller area of the upper lot given over to parking lot development, other LCP objectives for viewshed protection and community character are furthered.

The current proposed configuration and mix of uses would require 53 parking spaces. The Commission estimates that approximately 56 parking spaces (36 above and 20 below) could be accommodated on the site as previously discussed. The 56 spaces would include 3 disabled parking spaces and 17 compact spaces (i.e., 30%) consistent with LCP Section 13.10.552(b). The Commission estimates that bicycle parking spaces required for this mix of uses is 14 spaces (pursuant to LCP Section 13.10.552(b)). The Applicant's submitted revised plans show 23 bicycle parking spaces which are sufficient to accommodate this bicycle parking demand for the site. Therefore, the project can be found consistent with LCP parking requirements based on a 56 space parking lot. Accordingly, the Applicant's proposal for 69 parking spaces (50 space upper lot and a 19 space lower parking area) is unnecessary and inconsistent with the LCP visual and special community standards discussed in the previous finding.

In any case, it should be clear that the range of uses approved by the County, and as modified by this approval, have specific parking requirements which impact any mix of uses at this site. For illustration, a closer examination of the relationship between the parking requirements and various potential uses is provided below. The table below indicates the number of parking spaces that would be required for each type of use if all of the proposed square footage were allocated to each use alone. The table is arranged in order of magnitude from least parking intensive (warehousing) to the most (meeting rooms). As illustrated, of the visitor serving uses, the restaurant use tends to be more parking intensive.

The most logical and supportable use of the facility given all of the constraints is for some combination of overnight accommodations, restaurant, and day-spa. To a lesser degree, the juicery falls under the category of a small scale cottage industry which may be appropriate to the extent that it supplies any on-site restaurant and/or incorporates some retail sales. Retail operations can likewise be found appropriate. It is more difficult to find general office and manufacturing space as appropriate uses for this special coastal site; although, as conditioned, such uses are consistent.



<b>Santa Cruz County parking standard (Section 13.10.552)</b>	<b>Parking needed if entire LOWER floor allotted to this use (±13,000 sq.ft.)</b>	<b>Parking needed if entire UPPER floor allotted to this use (±10,000 sq.ft.)</b>	<b>Parking needed if ENTIRE BUILDING allotted to this use (±23,000 sq.ft.)</b>
1 space/1000 sq. ft. of <b>warehouse</b>	13	10	23
1 space/600 sq. ft. of <b>manufacturing</b>	22	17	39
1.1 space/unit of a <b>visitor accommodation</b>	24 (with 600 sq.ft. rooms)	18	42
1 space/200 sq. ft. of <b>office or retail</b>	65	50	115
1 space/100 sq. ft. of <b>restaurant</b> plus .3/employee	130+	100+	230+
1 space/33 sq. ft. of <b>meeting room</b>	394	303	697

In any event, from the table above, it is clear that the Applicant has developed a mixed use facility that strikes an appropriate balance between priority visitor serving uses and parking requirements. Only the boat residence has no connection to visitor serving priority uses. The project, as conditioned, provides a substantial visitor-serving facility that satisfies the LCP's priority use objectives and parking requirements, while also not compromising its visual and community protection imperatives. The Commission finds that, as conditioned, the proposed project is consistent with the relevant local coastal program policies discussed in this finding.

### 3. Public Access

#### 3.1 Applicable Coastal Act and LCP Public Access Provisions

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." Because this project is located seaward of the first through public road (Highway One), for public access and recreation issues the standard of review is both the certified LCP and the access and recreation policies of the Coastal Act.

##### 3.1.1 Coastal Act Policies

Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:



**Section 30210:** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**Section 30211:** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Section 30212(a):** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or,...*

**Section 30212.5:** *Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

**Section 30213:** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred....*

**Section 30214(a):** *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case...*

### **3.1.2 LCP Access Policies**

**Policy 7.6.2 Trail Easements.** *Obtain trail easements by private donation of land, by public purchase, or by dedication of easements...*

**Policy 7.7.1 Coastal Vistas.** *Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...*

**Policy 7.7.15 Areas Designated for Primary Public Access.** *The following are designated as primary public access, subject to policy 7.6.2: North Coast...Davenport bluff, Davenport Beach...*

**Policy 7.7.16 Improvements at Primary Access Points.** *Provide, encourage provision of, and/or require as a condition of new development approval, subject to Policy 7.6.2, the following improvements at primary destinations: path improvements and maintenance;...automobile parking;...bicycle parking;...access provisions for disabled if feasible;...scenic overlooks;...and*



identification signs.

**Policy 7.7.10 Protecting Existing Beach Access.** *Protect existing pedestrian...access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights.... Protect such beach access through permit conditions such as easement dedication...*

**Policy 7.7.11 Vertical Access.** *Determine whether new development may decrease or otherwise adversely affect the availability of public access, if any, to beaches and/or increases the recreational demand. If such impact will occur, the County will obtain as a condition of new development approval, dedication of vertical access easements adequate to accommodate the intended use, as well as existing access patterns, if adverse environmental impacts and use conflicts can be mitigated, under the following conditions: (a) Outside the Urban Services Line: to pocket beaches if there is not other dedicated vertical access; ...; to bluffs which are large enough and of a physical character to accommodate safety improvements and provide room for public use as a vista point.*

**Policy 7.7.12 Lateral Access.** *Determine whether new development would interfere with or otherwise adversely affect public lateral access along beaches. If such impact will occur, the County will obtain...dedication of lateral access along bluff tops where pedestrian and/or bicycle trails can be provided and where environmental and use conflict issues can be mitigated. Unrestricted lateral access to North Coast beaches shall be provided where environmental and public safety concerns can be mitigated....*

**Section 15.01.060(b) Trail and Beach Access Dedication.** *As a condition of approval for any permit for a residential, commercial, or industrial project, an owner shall be required to dedicate an easement for trail or beach access if necessary to implement the General Plan or the Local Coastal Program Land Use Plan.*

**Section 15.01.070(b)(1)...Public Access Standards, Trails.** *Where dedication is required for public access, the following minimum requirements shall apply:*

- (i) Shoreline access easements shall be a minimum of five feet wide.*
- (ii) Easements along proposed trail corridors or adopted trail corridors of for blufftop lateral access shall be a minimum of ten feet wide.*

**Section 13.11.074(a)(2) Standards for Pedestrian Travel Paths.** *(i) On-site pedestrian pathways shall be provided from street, sidewalk and parking areas to the central use area. These areas should be delineated from the parking areas by walkways, landscaping, changes in paving materials, narrowing of roadways, or other techniques.*

**Policy 3.10.1 Pathways.** *Require pathways for pedestrian and bicycle use through cul-de-sac and loop streets where such access will encourage these modes of travel as part of new development.*



***Policy 3.10.4 Pedestrian Traffic.*** *Require dedication and construction of walkways for through pedestrian traffic and internal pedestrian circulation in new developments where appropriate.*

***Policy 3.10.5 Access.*** *Ensure safe and convenient pedestrian access to the transit system, where applicable in new developments.*

***Policy 3.10.7 Parking Lot Design.*** *Provide for pedestrian movement in the design of parking areas.*

### **3.2 De Novo Public Access Analysis**

In order to approve a coastal permit, the cited access, parking, and traffic provisions have to be met.

#### **3.2.1 Public Access Trails and Parking Background**

The provision of various public access amenities is a substantial benefit of the proposed project. As discussed in more detail below, the Applicants have submitted a *Public Access Amenities and Access Management Plan* (Access Plan) that includes a variety of public trails and other access amenities (see Exhibit F).

Historically, the Applicant's project site has been at the center of multiple public activities along the Davenport shoreline. As summarized in the Applicant's Access Plan, "[t]he public...uses the northern portion of [the] property for access parking, viewing, beach access and as overflow parking for the businesses on the inland side of Highway One" (Access Plan p. 2). Moreover, the open, grassy area immediately adjacent is frequently traversed by pedestrians who want to enjoy the scenic coastal views and other related activities. Further, there is a network of informal trails heading from locations along Highway One out to the bluffs and down to Davenport beach. Some of these trails emanate from in and around the Applicant's property, including trails from the informal parking located at the northwestern end of the project down the bluff to the railroad tracks below (see Exhibit A); and a vertical trail at the southeastern end of the project site from Highway One to the other side of the project site and on to the beach. Informal access in some areas has been persistent enough to create erosion problems on the project site, prompting the County to observe that it was desirable to consolidate the four existing trails down the bank from the Applicant's upper bluff site, with one formalized stairway in order to minimize erosion (which could become more severe with more intensive site use), as shown on the Applicant's plans.<sup>1</sup>

The informal trail network surrounding the Applicant's property is confirmed by aerial photo analysis as

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<sup>1</sup> Specifically, the County found,

*To solve the erosion problem and provide a second trail access to the beach, the project has been conditioned to require that the applicant construct a stairway down the steep slope to replace the four damaged trail routes. The condition includes placing the stairway and a connecting trail under a permanent pedestrian easement as well as a route that connect the stairway to Highway 1 so that complete pedestrian access is provided from Highway 1 to the beach without causing erosion problems on the steep slope.*



well as the Central Coast District staff experience with available public access in the Davenport area. Davenport is known for its whale watching opportunities, including vantage points from the Applicant's project site. A number of Davenport and Santa Cruz County residents have provided numerous informal accounts to Commission staff of accessing this site over the last several decades.

In addition, as already suggested, the northern end of the Applicant's property has been used for parking since at least the late 1960s. Again, although regular counts are not available, site inspections and review of aerial photos reveals an informal dirt parking lot on the northern end of the property (aerial photos in Commission files dated 1967, 1978, 1987, 1990, 1993). Appellants have previously indicated, and staff has observed, that somewhere between three and ten cars parked on the upper bluff is common, although some of this parking may be occurring on the Lone Star property immediately to the north of the project site, which is also used by the public. Similarly, the Applicant's traffic consultants stated that on Tuesday October 1, 1997 and Saturday September 28, 1996 (both clear and sunny days) they "observed no more than 10 parked vehicles in this parking area at any time although the parking area has the capacity to store more than 10 vehicles." Close examination of an aerial photograph taken in 1993 reveals at least 25 vehicles parked in the combined informal parking areas (Applicant's lot and adjacent Lone Star lot) (see Exhibit A, p. 5). Finally, the *Davenport Beach and Bluffs Addendum to the General Plan for the North Coast Beaches* estimates that up to 40 vehicles park in the combined area during the summer weekends. In combination with the informal parking just to the north of the project site, the area that is void of vegetation and thus has been most used for regular parking would hold between 20 and 40 cars. Although it appears that the public has continuously parked in this area without restriction, the Applicant has stated that this use is by permission, that the site has been posted to this effect, and that the area has been closed to public use for a least one day per year (Access Plan, p. 2).

Originally, the County-approved project included two vertical trails from the Highway across the project site and one connecting trail along the railroad tracks. Specifically, the County's approval required the dedication of a permanent pedestrian easement: (1) over the trail south of the building<sup>2</sup>; (2) over the trail route from the proposed northern parking lot; and (3) over an area paralleling the railroad tracks along their seaward side. The approval also required construction of an access stairway from the parking lot down the railroad bluff cut to the railroad right of way thence southeasterly to join the southern beach access trail.

### **3.2.2 Public Access Impacts**

In terms of the public access impacts of the project, the new mixed use project will clearly bring increased commercial and visitor-serving use of the public beach resources, particularly Davenport beach, as well as the informal trail network that has developed in the project vicinity. As recommended

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<sup>2</sup> This trail already exists and provides a key link for accessing Davenport Beach from Highway One. A previous County permit requirement (County permit 74-124-U, condition #6) for this site required permanent, unobstructed public access. However, that condition did not actually require a recorded dedication and that earlier permit will be superceded by this new permit. Therefore the County required a legal dedication pursuant to the cited access provisions, specifically mentioning policy 7.7.15 in its findings and concluding, "the project has been conditioned to require that a permanent pedestrian easement be placed over this trail to ensure that public access along the trail continues in perpetuity."





for approval herein, peak use periods of the new development can be expected to regularly bring up to 56 automobiles into the development. Thus, the increased impacts on public resources would be substantial, particularly when considered over time, even if only some of the visitors associated with these cars take advantage of the trails leading out to the bluff and down to the beach. The submitted Access Plan, however, mitigates for these impacts by including five dedicated public parking spaces, and by leaving the remainder of the lot unrestricted for public use during non-peak use periods for the restaurant, overnight rooms, et cetera.

As discussed at length in the previous visual resources section, the project will also entail significant changes to the public vista across the site that is currently available. Maintaining and protecting visual access to the coast is as important as physical access. Indeed, in cases where public opportunities for physical access to the shoreline are not readily available, visual access may be extremely important. In this case, the applicant's Access Plan provides for public visual access by providing a bluff top trail with vista points and public benches. As discussed previously, the parking lot design has also been modified to mitigate the direct impacts of the lot on the public viewshed.

Finally, as proposed, the project will encroach on the public right-of-way significantly more than would normally be approved under the LCP for a project of this type. The County granted, and Commission staff is recommending, that setback variances be allowed for the renovated building and both parking lots. As discussed previously in Sections 1.2.2, 1.2.3 and 1.2.4, the normal setback requirements would be 30 feet from the highway right-of-way. In this case, though, a variance is appropriate because of the existing configuration of the building, the visual resource benefits of maximizing parking in the lower area, the constrained nature of the lot, and the need to concentrate appropriate site development nearest to the Highway to alleviate visual impacts over the property from Highway One (see previous Visual Resource finding for more detailed analysis). Nonetheless, however, any potential future public access and circulation in the setback area, or buffering from on-site development should the full Highway One right-of-way be utilized in the future, will be displaced by the building (24 foot encroachment into required buffer) and parking lot (0 feet for lower lot, primarily 10 feet for upper lot) encroachments into the buffer area that are the subject of the variance.

Moreover, visual mitigation for the project includes vegetated screening which is located within the Highway One right-of-way. Such screening, although welcome and appropriate for viewshed reasons, displaces pedestrians who might otherwise laterally access the coast along the Highway One shoulder at this location. This project blocks this lateral access capability. In addition, should this full right-of-way be needed in the future for enhanced public use, this screening elements would be displaced. With the buildings and parking lots pushed close to the Highway, zero feet for most of the Highway frontage along the main building, available space within which to replicate such screening is unavailable. Not only is pedestrian access impacted in this scenario, visual public access is also impacted.

### **3.2.3 Public Access Consistency Analysis**

Since the Commission continued the hearing on this matter in July, the Applicants have submitted a *Public Access Amenities and Access Management Plan* (Access Plan) as part of the proposed



development, which modifies and elaborates the previous, County-approved access trails and amenities (see Exhibit F). Among other things, this Plan includes: (1) proposed dedication, construction, and maintenance of vertical access trails at three locations and a lateral access trail across the bluff top<sup>3</sup>; (2) construction of a stairway from the bluff top to the railway elevation; (3) dedication of the southern riparian area as protected open space and habitat; (4) five parking spaces in the upper parking lot dedicated for exclusive public use and bicycle racks; and (5) vista points and viewing benches on the upper bluff. The Plan also provides for signage of public access and parking both at the entrance to the parking lot and at each designated space. Except for peak use periods, the Plan proposes that the parking lot be unregulated and open to the general public. Valet parking will be in place during peak use periods.

In general, the public access component of the project proposed by the applicant is consistent with the relevant Coastal Act and LCP policies that require the maximization and protection of public access, including the dedication of vertical and lateral access, provision of vista points and other amenities (see policies cited above). The proposed trails will provide vertical and partial lateral access to connecting trails that head both to the beach and out to the open bluff just to the north west of the project site. Public parking is provided, as are benches and viewing areas along the upper bluff. Special Condition 3 acknowledges the submitted Access Plan by requiring the submittal of revised plans substantially in compliance with the Plan submitted. The areas of access dedication are shown on Exhibit H.

Apart from the public access included in the project, there are a few areas where adjustments are needed to bring the project into full conformance with the LCP and the Coastal Act. These adjustments, while mostly clarifications, are warranted by the existing access associated with the project site, and the future impacts to public beach resources that will inevitable follow this new development.

First and foremost, although the Applicants have included a partial blufftop trail to provide connectivity from the vicinity of Highway One and the parking lot along the bluff to the stairway, there is no lateral trail dedication adjacent to the railroad tracks that would laterally connect the two vertical trails that lead to the lower, western edge of the project site. Evidence of the informal trails currently used indicates that visitors generally traverse one of the four eroded “gullies” down the railroad cut and then make their way to the beach on either side of the railway tracks. A lateral dedication along the full length of the property adjacent to the railway tracks was previously required by the Santa Cruz County approval.<sup>4</sup> The Applicant now indicates that the County-required easement is not possible because of conflicts with their existing easement with Union Pacific Railroad; however, no evidence of that easement being unilaterally exclusive of any other use easement has been submitted.

The option of laterally connecting the two vertical paths along Highway One would be difficult because

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<sup>3</sup> Applicants have clarified through communications subsequent to submittal of the *Public Access Amenities and Access Management Plan* that the various trails identified therein are included in the Applicant’s revised project as direct dedications to the County of Santa Cruz (Personal Communication, Tom Jamison to Tami Grove, 8/26/99).

<sup>4</sup> The previous dedication required by the County along the railroad tracks below the bluff is specifically not included in the Access Plan because of stated conflicts with an existing easement to the Union Pacific railroad (Access Plan, p. 4).



of the topography, but not physically impossible. Such an option, however, is virtually precluded by the encroachment of the building and lower parking lot into the setback area (via variance) and the corresponding use of the Highway One right-of-way for mitigating screening vegetation on both the upper and lower levels. Because the project has been allowed to move from 20 to 30 feet closer to the Highway right-of-way than is typically allowed for such an SU-zoned site with the proposed mix of uses, and because moving the project closer to the Highway correspondingly moves required screening vegetation toward and into the right-of-way, lateral access along the Highway is blocked by the project. Mitigation of the impact of these encroachments, however, (as well as complete trail connectivity), can be achieved by alternatively providing an equivalent lateral connection on the opposite side of the property along the railway tracks as previously required by the County. The partial lateral dedication along the blufftop does not directly mitigate the loss of the public right-of-way, but rather reflects existing uses patterns and provides mitigation for the visual access impacts of the project by providing vista points and benches. Thus, unless such dedication is absolutely precluded by the existing railroad easement, this approval is conditioned for a lateral dedication along the southern property line (see Special Condition 4).

Other clarifications that are appropriate in order to maximize public access include:

- The Access Plan includes signage for the trails and on Highway One. To assure that public access opportunities are maximized consistent with the Access Plan, Special Condition 3(c) clarifies that signs will be posted for the trails and that public access signs will be posted on both sides of Highway One. Highway signs must conform to any relevant Caltrans standards.
- Special Condition 3(d) also requires the submittal of plans for any development proposed in the Caltrans public right-of-way to assure no additional interference with public access and circulation along the eastern edge of the project site.
- Special Condition 3(a) requires that final plans provide for adequate transitions (e.g. stairways, ramps, etc.) and connections between the parking lot and the public trails.
- The project will result in intensified commercial use of the site, and this intensified use will now extend to this upper portion of the property, formalization of this long public access use is appropriate.

Finally, given the evidence of informal public use of the Applicant's site for parking, viewing, and access, and the fact that the full analysis necessary to establishing public rights that may exist has not been completed, the permit is conditioned to make clear that this approval does not constitute a waiver of any public rights that may exist on the property (see Special Condition 10).

### **3.2.4 Public Access Circulation**

The conditioned reduction in project intensity will serve to reduce the amount of traffic generated on the site. This will mean somewhat less traffic on Highway One than projected for the project as originally



proposed. And, this greater amount did not result in any policy inconsistency. The Commission, thus, concurs with the County finding that, “These increases in peak hour volumes will not change the operational level of service on this segment of Highway One from its current LOS rating of ‘C.’” Furthermore, to ensure smooth traffic flow and minimize impacts, County conditions III.D and V.F, developed in consultation with Caltrans regarding encroachments and a “4-legged” intersection with Highway One, have been accounted for through Special Condition 3 (encroachments) and the Applicant’s revised project which shows both site parking lot entrances lined up directly opposite Davenport Avenue and Ocean Street respectively.

The Commission finds that, as conditioned, the project is consistent with the Access policies of the LCP and the Coastal Act.

#### 4. Public Services: Sewer and Water

##### 4.1 Applicable LCP Public Service Provisions

The LCP states:

***Policy 2.1.4 Siting of New Development.*** *Locate new residential, commercial, or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

***Policy 2.2.2 Public Infrastructure (Facility and Service) Standards for General Plan and Local Coastal Program Amendments and Rezonings.*** *For all...rezonings that would result in an intensification of...land use, consider the adequacy of the following services, in addition to those services required by policy 2.2.1 [water, sewer, etc.] when making findings for approval. Allow intensification of land use only in those areas where all service levels are adequate, or where adequate services will be provided concurrent with development...*

***Policy 2.2.3 Reservation of Public Works Capacities for Coastal Priority Uses.*** *In the Coastal Zone, reserve capacity in existing or planned public works facilities for Coastal Priority Uses. For a description of those uses, see sections 2.22 and 2.23.*

***Policy 2.22.1 Priority of Uses Within the Coastal Zone.*** *Maintain a hierarchy of land use priorities within the Coastal Zone: First Priority: Agriculture and coastal-dependent industry; Second Priority: Recreation, including parks; visitor serving commercial uses; and coastal recreation facilities; Third Priority: Private residential, general industrial, and general commercial uses.*

***Policy 5.6.1 Minimum Stream Flows for Anadromous Fish Runs.*** *Pending a determination based on a biologic assessment, preserve perennial stream flows at 95% of normal levels during summer months, and at 70% of the normal winter baseflow levels. Oppose new water rights*



*applications and time extensions, change petitions, or transfer of existing water rights which would individually diminish or cumulatively contribute to the diminishment of the instream flows necessary to maintain anadromous fish runs and riparian vegetation below the 95%/70% standard.*

***Policy 5.6.2 Designation of Critical Water Supply Streams.*** *Designate the following streams, currently utilized at full capacity, as Critical Water Supply Streams: Laguna, Majors, Liddell, San Vicente, Mill, and Reggiardo Creeks;... Oppose or prohibit as legal authority allows, new or expanded water diversion from Critical Water Supply Streams. Prohibit new riparian or off stream development or increases in the intensity of use, which require an increase in water diversions from Critical Water Supply Streams. Seek to restore in-stream flows where full allocation may harm the full range of beneficial uses.*

***Program 5.6(g) Maintaining Adequate Streamflows Program.*** *Develop more detailed information on streamflow characteristics, water use, sediment transport, plant and soil moisture requirements, and habitat needs of Critical Water Supply Streams and streams located in the coastal zone. Use this information to formulate a more detailed strategy for maintenance and enhancement of streamflows on Critical Water Supply Streams and to better understand the role of streamflows in watershed ecosystems and provide a basis for cooperative management of watershed ecosystems.*

***Objective 7.18b Water Supply Limitations.*** *To ensure that the level of development permitted is supportable within the limits of the County's available water supplies and within the constraints of community-wide goals for environmental quality.*

***Policy 7.18.1 Linking Growth to Water Supplies.*** *Coordinate with all water purveyors and water management agencies to ensure that land use and growth management decisions are linked directly to the availability of adequate, sustainable public and private water supplies.*

***Policy 7.18.2 Written Commitments Confirming Water Service Required for Permits.*** *Concurrent with project application require a written commitment from the water purveyor that verifies the capability of the system to serve the proposed development. Projects shall not be approved in areas that do not have a proven, adequate water supply. A written commitment is a letter from the purveyor guaranteeing that the required level of service for the project will be available prior to the issuance of building permits,.... The County decision making body shall not approve any development project unless it determines that such project has adequate water supply available.*

***Policy 7.18.3 Impacts of New Development on Water Purveyors.*** *Review all new development proposals to assess impacts on municipal water systems, County water districts, or small water systems. Require that either adequate service is available or that the proposed development provide for mitigation of its impacts as a condition of project approval.*

***Policy 7.19.1 Sewer Service to New Development.*** *Concurrent with project application, require*



*a written commitment from the service district. A written commitment is a letter, with appropriate conditions, from the service district guaranteeing that the required level of service for the project will be available prior to issuance of building permits, .... The County decision making body shall not approve any development project unless it determines that such project has adequate sewage treatment plant capacity.*

***Policy 7.20.1 Community Sewage Disposal Systems, Within the Rural Services Line.***  
*...Community sewage disposal systems ...shall be sized to serve only the buildout densities for lands within the Rural Services Line.*

#### **4.2 De Novo Public Services Analysis**

The project site is served by the Davenport Water and Sanitation District (DWSD) which is managed by the Santa Cruz County Public Works Department.

In order to approve a coastal permit for the project, the cited local coastal program policies have to be satisfied. As conditioned to limit the intensity of use (by the parking limitations discussed above), the amount of water used and wastewater generated will likely be less than projected in the county permit file. For example, if the use of the building was a bed and breakfast or motel of 20 rooms (some “units” may be comprised of more than one room) and a day spa, then projected water use would be approximately 4,510 gpd instead of the projected 5,293 gpd. Wastewater generation would be correspondingly reduced. (It would be about 500 gpd less, which is the amount of water use projected for irrigation.)

##### **4.2.1 Wastewater**

The County-approved project would increase wastewater coming from the site to 4,792 gallons per day (gpd) corresponding to an 8% increase in total wastewater flow in the DWSD. The County permit file indicates that the property owners previously paid a sewer service connection fee for 1,405 gpd (prior to that time the parcel utilized an on-site septic system). The DWSD issued a written commitment to serve the project and required a wastewater connection fee of \$43,038 based on the increased wastewater flows and the commensurate need to upgrade the wastewater system to handle the increased flow.

The County’s approval also allows for building permits for the project to be issued without the service improvements being completed. Instead, the County’s approval postponed project occupancy until the wastewater system upgrade is completed. As such, there is not a clear guarantee that the required level of service for the project would be in place prior to issuance of the building permit (as required by LCP policy 7.19.1). The basis for the LCP policy 7.19.1 restriction is that once buildings are completed, there is pressure to actually allow occupancy whether or not service upgrades have been completed. In this case, the systems and connections are in place and there are no moratoria in effect. Therefore, the permit condition could easily be amended to allow occupancy and its attendant increase in wastewater generation without the necessary upgrades.

Wastewater capacity problems in Davenport in previous years (due to old collection lines into which



excess water infiltrates) have led to raw wastewater discharges into the Pacific Ocean. Therefore, any increase in flows, even the estimated eight percent from this project, is significant until the system is upgraded. Although DWSD has secured the necessary funding for the sewer replacement project and is now advertising for bids to construct the project, it is not clear when the upgrades would be complete.

In any case, to ensure LCP policy 7.19.1 consistency, the Applicants will need an updated service commitment letter for any amount of wastewater to be generated above the 1,405 gpd prior to the issuance of building permits. See Special Condition 7.

#### **4.2.2 Water**

The County-approved project would increase average daily water consumption at the site from approximately 2,300 gpd to 5,293 gpd. When the juice plant was in operation in the late 1980's and early 1990's, average daily water use was in the range of 10,000 gpd. Therefore, the project will result in more water use than recently, but much less than in the previous period. According to the County permit file, the owners actually have paid for a water connection, and have a legal entitlement, for 4,216 gpd. As with wastewater, DWSD issued a written commitment to serve water to the project but again noted that limited capacity was available absent needed system upgrades.

Specifically, the water system suffers from limited water filter capacity at the water treatment plant, meaning customers may not be receiving adequately treated drinking water. Therefore, the Applicants had discussions with County officials and negotiated an agreement which would allow their project to go forward. In this case, rather than require a fee, the County required the applicants to actually install the water system improvements. As with wastewater, the County conditioned the permit for the proposed project in a way that allows the building permits to be issued and ties project occupancy to water system improvement completion (County Condition IV.B). As such, there is not a clear guarantee that the required level of service for the project would be in place prior to issuance of the building permit (as required by LCP Policy 7.18.2).

DWSD gets its water from Lone Star Industries, whose sources of water are San Vicente Creek and the tributary Mill Creek. While Lone Star has a riparian right, DWSD lacks an appropriate right for the water it diverts. Although there is no stream flow information in the County permit record, USGS has calculated average annual runoff in the San Vicente watershed at 6,800 acre-feet per year. LCP Policy 5.6.2 (written in the early 1980's before the juice plant was in operation) designates San Vicente and Mill Creeks as "currently utilized at full capacity." Since that policy was written, the coho salmon and the California red-legged frog, which inhabit the creek, have been federally listed as "threatened," and the California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream.

Whether continued and increased water withdrawals will adversely impact the San Vicente Creek habitat and what mitigation measures might need to be taken is unclear. Further uncertainty is added to the overall water picture by the fact that the residential uses in the system are not metered. There is little in the County permit record nor is there a San Vicente Creek watershed or stream management plan in



place to address these issues. Furthermore, DWSD must still perfect its water rights. These actions, which are not under the responsibility of the Applicants, will be the appropriate junctures to address LCP policies regarding the protection of in-stream flows and the associated riparian habitats. In any event, with regard to the project before the Commission, CDFG has indicated that “project-related water demand will have insignificant effects on stream flow and instream coho habitat conditions” (see Exhibit I).

For this application, the County’s permit condition requires the applicant to provide necessary improvements to the water system in order to add approximately 3,000 gallons to the current 2,300 gallons per day of water use. It is uncertain whether or not this increase in water use will result in an increased stream diversion because the amount of water that the District is agreeing to provide represents an actual decrease in the amount of water previously supplied to this site when the building housed the juice plant. It is possible that as part of the District’s obtaining the necessary water rights and addressing endangered stream habitat, additional system improvements may be necessary beyond upgrading the filters. For the Applicants, however, the LCP requirement is to have a written commitment to serve prior to the issuance of building permits; the project as approved by the County does not contain this assurance. Again, the policy rationale being that once buildings are completed, there is pressure to actually allow occupancy whether or not service upgrades have been completed. Thus, to ensure LCP policy 7.18.2 consistency, the Applicants will need an updated service commitment letter guaranteeing that the required level of water service for the project will be available prior to the issuance of building permits. See Special Condition 7.

As so conditioned, the project is consistent with the relevant local coastal program policies discussed in this finding.

## 5. Nonpoint Source Runoff

### 5.1 Applicable LCP Nonpoint Source Runoff Provisions

The LCP states:

***Policy 5.4.14 Water Pollution from Urban Runoff.*** Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.

***Policy 5.7.4 Control Surface Runoff.*** New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots, land divisions or commercial and industrial development.

***Policy 5.7.5 Protecting Riparian Corridors and Coastal Lagoons.*** Require drainage facilities,





*including curbs and gutters in urban areas, as needed to protect water quality for all new development within 1000 feet of riparian corridors or coastal lagoons.*

***Policy 7.23.1 New Development.*** ...Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and in other areas as feasible.

***Policy 7.23.2 Minimizing Impervious Surfaces.*** Require new development to limit coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.

***Policy 7.23.5 Control Surface Runoff.*** Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:...(b) construct oil, grease and silt traps from parking lots, land divisions or commercial and industrial development. Condition development project approvals to provide ongoing maintenance of oil, grease and silt traps.

## **5.2 De Novo Nonpoint Source Runoff Analysis**

The County-approved project would increase impervious surfacing through paving over the undeveloped upper bluff area for the proposed 66-space parking lot (approximately 2,640 square feet of pavement). The Applicant currently proposes a revised project for 50 upper terrace parking spaces which would result in approximately 19,000 square feet of impervious surfacing at this upper lot. In any event, the County conditioned the project for a grading, drainage and erosion control plan; silt and grease traps for all parking area catch basins; and a long-term monitoring and maintenance program for the silt and grease trap filtering mechanisms. On-site runoff would be channeled into the existing stormwater pipe that extends under the railroad tracks and discharges into an existing drainage swale on the ocean side of the tracks. Rip-rap would be placed at the outfall as an energy dissipater.

Analyzed in isolation, the County's conditions would seem to adequately address nonpoint source runoff concerns. Any construction-related runoff pollutants (e.g., sediments, petroleum hydrocarbons, trash and debris, etc.) would be controlled through the required grading, drainage and erosion control plan. Post-construction site runoff would be collected and filtered for urban pollutants prior to discharge from the site through the existing culvert. However, LCP Policy 7.23.2 also calls for minimizing impervious surfaces. Moreover, as previously detailed, there are also other visual and special community resource concerns with regard to the size and configuration of the proposed parking lot.

The primary mechanism for minimizing impervious surfaces and reducing parking lot-related polluted runoff is to reduce the size of the parking lot. As the parking lot size is reduced, the number of vehicles using the lot at any one time is also reduced. With less vehicles, there is a corresponding reduction in the amount of automobile by-products contributing to polluted runoff (e.g., petroleum hydrocarbons, heavy metals such as lead, copper, zinc and cadmium, etc.). With less pollutants and less impervious area for



them to collect upon, there is a reduction in polluted runoff ultimately flushed off site. This is the case whether or not silt and grease traps are in use given that the filtering ability of these units can vary (dependent upon flows and levels of contaminants).

A second way of reducing impervious surfacing for parking areas is through the use of porous/permeable surface treatment materials (such as turf block, pavers, cobbles, etc.) which allow for some runoff infiltration. However, these types of treatments are generally reserved for less frequently used parking areas (such as emergency access roads and parking overflow areas) where heavy use and loads are not anticipated. Moreover, these types of treatments are not generally recommended for primary parking areas because automobile-related polluted runoff constituents can then percolate directly into soils (thence into groundwater seeps and ultimately to the ocean). In this case, any parking area would be a primary parking lot area subject to heavy levels of use. As such, polluted runoff concerns can best be addressed through engineered filtration systems such as required by the County.

Ultimately, a smaller parking lot serves to address previously identified visual and special community resource concerns at the same time as minimizing impervious surfacing and reducing polluted runoff. In other words, LCP policies and goals read as a whole are better served at this location with a reduced parking area. The reduced parking lot building envelope reduces upper parking lot impervious surfacing by about 1,400 square feet. CDFG has likewise indicated that such a project would not likely cause any significant detrimental water quality impacts (see Exhibit I). In order to approve a coastal permit for the project, all of the cited local coastal program policies have to be satisfied. This can be accomplished by retaining the essence of County conditions III.G, V.B, and VI.C regarding drainage and erosion control and reducing the parking lot area (see Special Conditions 3 and 6(g)). The Commission finds that, as conditioned, the proposed project is consistent with the relevant local coastal program policies discussed in this finding.

## 6. Archaeological Resources

### 6.1 Applicable LCP Archaeological Provisions

The LCP states:

***Objective 5.19 Archaeological Resources.*** To protect and preserve archaeological resources for their scientific, educational and cultural values, and for their value as local heritage.

***Policy 5.19.2 Site Surveys.*** Require an archaeological site survey as part of the environmental review process for all projects with very high site potential as determined by the inventory of archaeological sites, within the Archaeological Sensitive Areas, as designed on General Plan and LCP Resources and Constraints Maps filed in the Planning Department.

***Policy 5.19.4 Archaeological Evaluations.*** Require the applicant for development proposals on any archaeological site to provide an evaluation, by a certified archaeologist, of the significance of the resource and what protective measures are necessary to achieve General Plan and LCP



*Land Use Plan objectives and policies.*

In addition, County Code Chapter 16.40 has detailed provisions to protect "Native American Cultural Sites."

## **6.2 De Novo Archaeological Analysis**

Two separate archaeological reconnaissances conducted on the subject site (one by County Planning staff in June 1997 and a second by Archaeological Consulting, Inc. in July 1997) failed to identify evidence of archaeological resources. Consistent with LCP requirements, the County's approval includes a condition to stop work and undertake the appropriate archaeological mitigation if any artifact or other evidence of archaeological resources are discovered during site preparation, excavation, or other ground disturbance (see County Condition V.I). As conditioned to retain the essence of this County archaeological condition (see Special Condition 8), the Commission finds that the project is consistent with the relevant local coastal program archaeological policies.

## **7. Geotechnical**

### **7.1 Applicable LCP Geotechnical provisions**

County Code Chapters 16.10 "Geologic Hazards" and 16.20 "Grading" enumerate the relevant geotechnical requirements to be followed.

*Section 16.10.020 Geologic Hazards, Scope. This chapter sets forth regulations and review procedures for development activities including grading, septic systems installation, building permits, minor land divisions, and subdivisions throughout the County as well as within mapped geologic hazards areas.*

*Section 16.20.020 Grading, Scope. This chapter sets forth rules and regulations to control all grading, including excavations, earthwork, road construction, dredging, diking, fills, and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspections....*

### **7.2 De Novo Geotechnical Analysis**

The subject site is composed of Soquel loamy soil (to a depth of about 18 inches) on top of a hard Santa Cruz mudstone. Approximately 1,350 cubic yards of materials would be removed under the County's approval for a 66-space parking lot lowered approximately 3 feet below grade. Under the County's approval, the spoils would be transported to Big Creek Lumber Company (approximately 4 miles north of Davenport on Highway One).

The geotechnical report prepared for the project (by Reynolds and Associates dated October 28, 1996 and updated May 5, 1997) did not identify any unusual soil or geotechnical characteristics that would compromise the proposed development. The site does not contain any notable geologic features other



than the steep railroad cut on the ocean side of the proposed parking lot area. To maintain site stability consistent with LCP Chapter 16.10, the geotechnical report recommends a 25 foot development setback from the top of the railroad cut. The County approval required the project to conform to the recommendations of the geotechnical report and includes this 25 foot setback conditionally (see County Conditions III.F, IV.A.11 and V.J.3). The essence of these County geotechnical conditions is contained in Special Condition 3 of this approval.

Although reduced in scale, because of the deeper parking lot excavation (to approximately 5 feet below the grade of the Highway), approximately 3,200 cubic yards of material can likely be expected from the excavation of the approved upper parking lot building envelope. This would be approximately 1,850 cubic yards more than the County approved. In order to ensure that the additional cut would not lead to any site stability problems, the Applicant must provide evidence of review and approval of all appropriate plans by a licensed geologist or geotechnical engineer. In any case, this approval is conditioned to ensure that a valid coastal permit is in place for receiving any fill materials. Again, see Special Condition 3.

The County also required the Applicant to restore the slope of the railroad cut adjacent to the proposed parking lot (see County Condition V.D). This area has a series of four informal pedestrian trails historically used by the public to access the beach and bluffs below the site. Use of these trails has caused accelerated erosion along the railroad cut. As part of the access mitigation for the project, these four informal trails would be replaced by a stairway to channel the public down and over the slope (see previous public access findings). This approval is likewise conditioned for this bluff restoration component (Special Condition 3).

In order to approve a coastal permit for the project, LCP policies addressing structural stability and erosion control have to be satisfied. The Commission concurs that this can be achieved primarily by retaining the essence of County conditions II.C, III.F, IV.A.11, V.D, and V.J.3 as incorporated into the revised plan requirements of Special Condition 3. As conditioned to retain and implement the County's previous geotechnical conditions (as modified), the Commission finds that the project is consistent with the relevant local coastal program geologic hazard and grading policies.

## 8. Biological Resources

### 8.1 Applicable LCP Biological Provisions

The LCP is very protective of riparian corridors, wetlands and other environmentally sensitive habitat areas. LCP wetland and wildlife protection policies include Policies 5.1 et seq (Biological Diversity) and 5.2 et seq (Riparian Corridors and Wetlands), and Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection). The LCP states:

*Section 16.32.090(b)(2) Approval Conditions. The following conditions shall be applied to all development within any sensitive habitat area: Dedication of an open space or conservation easement or equivalent measure shall be required as necessary to protect the portion of a*



*sensitive habitat which is undisturbed by the proposed development activity or to protect a sensitive habitat on an adjacent parcel.*

## 8.2 De Novo Biological Analysis

To the southeast of the existing building, on the downcoast portion of the property, is the San Vicente Creek riparian area. Most of this area is designated on the land use plan as “Existing Parks and Recreation” and is zoned “Parks, Recreation and Open Space.” No development has been proposed in this area. CDFG has concluded that the project will not impact this resource (see Exhibit I for CDFG’s August 23, 1999 letter on the subject).

However, if Highway One modifications are required by Caltrans (e.g., a left-turn lane into the project), this riparian area could be impacted. The Applicant’s revised project proposal includes a open space and habitat deed restriction over this riparian area.<sup>5</sup> Such a restriction is consistent with the LCP’s riparian corridor dedication requirements (LCP Section 16.32.090(b)(2)). In order to implement this portion of the Applicant’s project consistent with the Commission’s protocol for such legal documents, this approval is conditioned for such a deed restriction (see Special Condition 6).

In any event, the corridor has only been generally mapped. Since no development is planned to occur in this area, protecting the entire portion of the property shown on Exhibit H is sufficient. As an alternative, site-specific resource and buffer mapping could occur to determine a more precise area to protect. This approval allows the Applicant this alternative.

In order to approve a coastal permit for the project, LCP policies addressing the San Vicente Creek riparian corridor have to be satisfied. As conditioned for a San Vicente Creek open space conservation easement, the Commission finds that the project is consistent with the relevant local coastal program policies.

## 9. Cumulative & Growth-Inducing Impacts

### 9.1 Applicable LCP Cumulative Impact Provisions

The LCP states:

***Policy 2.1.4 Siting of New Development.*** *Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

***Policy 2.3.5 Areas Within the Rural Service Line.*** *Utilize a Rural Services Line (RSL) to*

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<sup>5</sup> Applicants have clarified through communications subsequent to submittal of the *Public Access Amenities and Access Management Plan* that the open space riparian offer to dedicate identified therein is included in the Applicant’s revised project as a deed restriction (Personal Communication, Tom Jamison to Dan Carl, 8/27/99).



*recognize and delineate Davenport, Boulder Creek, ...as areas which exist outside the Urban Services Line but have services and densities of an urban nature....Allow infill development consistent with designated urban densities only where served by a community sewage disposal system....*

***Policy 2.23.2 Designation of Priority Sites.*** Reserve the sites listed in Figure 2-5 for coastal priority uses as indicated. Apply use designations, densities, development standards, access and circulation standards as indicated.

***Policy 2.23.3 Master Plan Requirements for Priority Sites.*** Require a master plan for all priority sites. Where priority use sites include more than one parcel, the master plan for any portion shall address the issues of site utilization, circulation, infrastructure improvements, and landscaping, design and use compatibility for the remainder of the designated priority use site. The Master Plan shall be reviewed as part of the development permit approval for the priority site.

LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as “Coastal Priority Sites – North Coast” (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

***LCP Figure 2-5.*** Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.

These LCP priority sites are also subject to the following circulation and public access requirements:

***LCP Figure 2-5.*** Coordinate improvements with the parking on parcel 058-121-04...

***Section 13.11.072(a)2(i) Site Design, Coordinated Development.*** Coordinated site design (including shared parking and circulation systems...) shall be encouraged on adjacent parcels with similar uses. In such cases, mutual access easements granted to each property owner are necessary. Site plans which allow for future shared use between adjacent parcels are encouraged...

## **9.2 De Novo Cumulative Impact Analysis**

Potential growth-inducing and cumulative impacts associated with the project, some of which may be realistic to expect, do not encompass new issues beyond those covered in the previous findings. Rather, these potential impacts serve to emphasize the previous conclusions with regard to visual impacts, small scale development in a special community, land use, public access, and public services. The primary potential cumulative and growth-inducing aspects of the project regard the adjacent undeveloped priority sites, and other development which is or may be proposed in Davenport.



### **9.2.1 Adjacent LCP Priority Sites**

Concerns have been raised that the proposed project will predispose the adjacent (northwest) Davenport Bluffs LCP priority sites (parcels APNs 058-072-01,02,03) for development. The LCP reserves these adjacent parcels for “coastal access, overlook, parking and supporting facilities and improvements.” The North Coast Beaches Unified Plan, which is contained in the County General Plan also discusses this property adjacent to the subject site. The Enhancement Plan for Davenport Bluffs shows a 23 to 26 space unpaved parking lot directly adjacent to the proposed upper terrace parking lot. Also shown is a loop trail (along the edge of the bluff and along the railroad tracks) on the property seaward of the subject site.

The proposed project does pave the way for the adjacent site to be developed for a parking lot and public access, by virtue of the common accessway being created and the potential loss of public parking on the subject site. Site patrons may also use the proposed parking and trails to access the adjacent bluff top and beach parcels. This may facilitate development of the planned parking lot to serve the traveling public. In some senses this is positive and will help carry out local coastal program policies (such as LCP Section 13.11.072(a)2(i)).

However, development of the adjacent lots and the subject upper parking lot area could also lead to adverse, cumulative visual impacts. In making this finding, the Commission is not downplaying the need for public parking, but rather indicating that more sensitive design treatment needs to be explored and the building envelope given over to an upper bluff parking lot at the subject site needs to be reexamined. The County-approved 66-space parking lot would span the upper portion of the subject property. Approval of such a large and obtrusive parking lot would be precedential in terms of approving additional adjacent parking that could be similarly obtrusive. The combination of both parking lots (i.e., on the priority sites and the subject site), with no break between them, would unalterable change the view of and character of the bluff.

Be that as it may, future development that could occur on the priority sites is limited to the allowable uses under the Parks and Recreation zoning district and the General Plan provisions for coastal access overlook, parking and supporting facilities. These uses do not include the variety of more intense uses allowed in commercial land use designations. Although some additional water and sewer use could be expected from restrooms, drinking fountains, landscape irrigation and the like, the subject project is not growth-inducing in the sense of adjoining similar structural development and infrastructure occurring.

In order to limit potential future cumulative impacts associated with this project as it relates to the Davenport Bluffs priority sites, this approval is conditioned for a reduced scale parking lot, screened by landscaping and depressed approximately 5 feet below the grade of the Highway (see Special Condition 3). Such a reduced scale parking lot alternative likewise alleviates previous visual concerns, as well as concerns regarding small scale development in the special Davenport community. In the event that the priority sites develop as envisioned by the LCP with parking, this approval is also conditioned in such a way as to allow for the proposed upper terrace parking lot to be connected to these priority sites as provided for by LCP Figure 2-5; this access was included as part of the Applicant’s Access Plan



submittal.

In any case, the project conditions serve to demonstrate that any visible rural development west of Highway One must be carefully designed to meet all local coastal program policies. As so conditioned, the project is consistent with the relevant local coastal program policies and will not set an adverse precedent for any similar future proposals.

### **9.2.2 Public Services**

The County's approval, which allowed for building permits for the subject development to be issued before the water and sewer systems are upgraded to handle the resulting demands, would set an adverse precedent for future development proposals in the area. In fact, there are several projects on the inland side of Highway One which are within the planning process now, or may be proposed in the near future. Such a precedent would be growth-inducing and is inappropriate in light of LCP policies requiring a demonstration of adequate services prior to issuance of permits. Accordingly, this approval is conditioned for updated service commitment letter for public water and wastewater services (see Special Condition 7).

## **10. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Santa Cruz County issued a Negative Declaration with 11 mitigation measures under CEQA for this project on February 24, 1998; a mitigation monitoring program was part of the County's final project approval (see Exhibit C). The County's conditions providing environmental mitigation measures have generally been retained in this approval. However, this staff report has identified and discussed certain additional potential adverse impacts not fully addressed by the local government for which additional and/or modified conditions are necessary. Accordingly, this project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). There are no additional feasible mitigation measures that would lessen any significant adverse effects on the environment within the meaning of CEQA. As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.

